

LEGISLATIVE BILL 59

Approved by the Governor April 20, 1979

Introduced by Koch, 12

AN ACT to amend sections 79-444 and 79-444.01, Reissue Revised Statutes of Nebraska, 1943, relating to schools; to require examination and immunization of certain students as prescribed; to provide exceptions; to provide procedures; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 79-444, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-444. (1) The district board or the board of education, in all classes of school districts, shall not admit any child to the first grade of any school of such district unless such child has reached the age of six years or will reach such age on or before October 15 of the current year; Provided, that in the event any child has successfully completed the kindergarten or beginner grade such child may enter the first grade of any such school regardless of age.

(2) The board in all classes of school districts shall not admit any child into the kindergarten or beginner grade of any school of such school district unless (a) such child has reached the age of five years or will reach such age on or before October 15 of the current year or (b) such child has demonstrated through recognized testing procedures approved by the State Board of Education that he is capable of carrying the work of those grades.

(3) The school board or board of education may require a birth certificate prior to entrance of a child into the beginner grade and shall require evidence of a physical examination by a qualified physician ~~and such immunization as required by the board~~ within six months prior to the entrance of a child into the beginner grade and the seventh grade, or in the case of a transfer from out-of-state to any other grade of the local school; Provided, no such physical examination ~~or immunization~~ shall be required of any child whose parent or guardian shall object thereto in writing, ~~on the grounds that such physical examination or immunization is contrary to the religious tenets of an established church of which he is a member or adherent.~~ The cost of such physical

examination shall be borne by the parent or guardian of each child who is examined.

This section shall not be construed to prohibit any district board or board of education in its discretion, from establishing and supporting financially, programs to which attendance shall be voluntary which they deem beneficial to the education of prekindergarten children, nor shall this section be construed to allow any school district to fail to meet its responsibilities under Chapter 43, article 6.

Sec. 2. That section 79-444.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-444.01. Each board of education and the governing authority of each private school in this state shall require each ~~child--under--twelve--years--of--age~~ student to be protected against measles, ~~mumps~~, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization ~~before being permitted to attend any school under its jurisdiction; prior to November 1 of each school year for original enrollees or, in the case of a student transferring from another school, within sixty days after the enrollment date,~~ unless a parent or guardian of such ~~child~~ student presents a written statement that he ~~or she~~ does not wish to have such ~~child~~ student so immunized. ~~In the case of any child enrolled in school on September 2, 1973, the immunization required by sections 79-444.01 and 79-444.02 shall be effected no later than September 4, 1973. Such written statement shall be kept in the student's file. Any student who does not comply with this section shall not be permitted to continue in school until he or she shall so comply.~~

The cost of such immunization shall be borne by the parent or guardian of each ~~child~~ student who is immunized; ~~Provided, that such cost shall be borne by the Department of Health for those children students whose parents or guardian are financially unable to meet such cost, for such service, to the extent that funds are specifically available for such purposes.~~

Sec. 3. The Department of Health shall adopt and promulgate rules and regulations relating to the required levels of protection, the evidence necessary to prove that the required examination or immunization has been received, and the reporting of each student's immunization status. The Department of Health shall furnish local school authorities with copies of such rules and regulations and any other material which will assist in the carrying out of this act.

Sec. 4. At the time the parent or guardian of any child is notified that such child must have a physical examination pursuant to section 79-444, or immunizations pursuant to section 79-444.01, he or she shall also be notified in writing of his or her right to submit a written statement refusing a physical examination or immunization for his or her child.

Sec. 5. Any person violating the provisions of this act shall be guilty of a Class V misdemeanor.

Sec. 6. That original sections 79-444 and 79-444.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.