

## BRIEFS

### **Compulsory Vaccination**

Religious freedom is protected by the Constitution of the United States.<sup>1</sup> However, under a state's police power, a state may override religious objections to a law in order to protect the public health, safety, morals, or general welfare of its citizens. Under a state's police power, it can require compulsory vaccinations.<sup>2</sup> These exemptions fall into three categories: personal beliefs, religious convictions, and medical reasons.

#### Personal Belief Exemption

A personal belief exemption allows parents to simply state that they are opposed to vaccinating their child without any further justification. This is a broad exemption. The following states provide a personal belief exemption: Arizona,<sup>3</sup> California,<sup>4</sup> Colorado,<sup>5</sup> Idaho,<sup>6</sup> Louisiana,<sup>7</sup> Maine,<sup>8</sup> Michigan,<sup>9</sup> Minnesota,<sup>10</sup> North Dakota,<sup>11</sup> Ohio,<sup>12</sup> Oklahoma,<sup>13</sup> Utah,<sup>14</sup> Vermont,<sup>15</sup> Washington,<sup>16</sup> and Wisconsin.<sup>17</sup>

#### Religious Conviction Exemption

Most states provide a religious conviction exemption. The following states<sup>18</sup> provide this exemption: Alabama,<sup>19</sup> Arkansas,<sup>20</sup> Colorado,<sup>21</sup> Connecticut,<sup>22</sup> Delaware,<sup>23</sup> District of Columbia,<sup>24</sup> Florida,<sup>25</sup> Georgia,<sup>26</sup> Hawaii,<sup>27</sup> Idaho,<sup>28</sup> Illinois,<sup>29</sup> Indiana,<sup>30</sup> Iowa,<sup>31</sup> Kansas,<sup>32</sup> Kentucky,<sup>33</sup> Maine,<sup>34</sup> Maryland,<sup>35</sup> Massachusetts,<sup>36</sup> Michigan,<sup>37</sup> Missouri,<sup>38</sup> Montana,<sup>39</sup> Nebraska,<sup>40</sup> Nevada,<sup>41</sup> New Hampshire,<sup>42</sup> New Jersey,<sup>43</sup> New Mexico,<sup>44</sup> New York,<sup>45</sup> North Carolina,<sup>46</sup> Ohio,<sup>47</sup> Oregon,<sup>48</sup> Pennsylvania,<sup>49</sup> Rhode Island,<sup>50</sup> South Carolina,<sup>51</sup> South Dakota,<sup>52</sup> Tennessee,<sup>53</sup> Texas,<sup>54</sup> Utah,<sup>55</sup> Vermont,<sup>56</sup> Virginia,<sup>57</sup> Washington,<sup>58</sup> West Virginia,<sup>59</sup> Wisconsin,<sup>60</sup> and Wyoming.<sup>61</sup> Alaska<sup>62</sup> and Mississippi<sup>63</sup> provide no religious conviction exemption from compulsory vaccination laws.

Under a state's police power, a state may override a personal belief or religious conviction exemption during an epidemic or it may exclude the unvaccinated child from school until the danger passes. Religious exemptions that apply to only "recognized" churches or denominations may be unconstitutional.<sup>64</sup> When claiming a religious conviction exemption, the reason for the exemption must be based on religious beliefs, not merely "personal moral scruples or [an] unsupported fear of vaccinations."<sup>65</sup> Furthermore, the religious belief must be sincerely held.<sup>66</sup> The procedure for claiming a religious conviction exemption varies from state to state, but all require some type of signed statement giving the belief for which the person seeks an exemption.

#### Medical Exemption

A medical exemption to the compulsory vaccination laws is provided in all states<sup>67</sup> but Alaska and Maryland. However, the Supreme Court has indicated that a medical exemption to immunization may be constitutionally required.<sup>68</sup> A medical exemption would apply when a child's health may be in danger if he or she receives a vaccination. To claim this exemption, a parent must get a signed statement from a physician stating the necessity for an exemption for medical reasons.

For More Information:

If you desire additional information on this or other religious liberty issues, please feel free to write us at The Rutherford Institute, P.O. Box 7482, Charlottesville, Virginia 22906-7482, or visit our website at [www.rutherford.org](http://www.rutherford.org).

## ENDNOTES

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1. U.S. CONST. amend I.
  2. Jacobson v. Massachusetts, 197 U.S. 11 (1905).
  3. ARIZ. REV. STAT. ANN. 15-873 (2000).
  4. CAL. HEALTH & SAFETY CODE 120365 (West 2000).
  5. COLO. REV. STAT. ANN. 25-4-903 (West 2000).
  6. IDAHO CODE 39-4802 (2000).
  7. LA. REV. STAT. ANN. 17:170 (West 2000).
  8. ME. REV. STAT. ANN. tit. 20-A, 6355 (West 2000).
  9. MICH. COMP. LAWS 333.9215 (West 2000).
  10. MINN. STAT. ANN. 121A.15 (West 2000).
  11. N.D. CENT. CODE 23-07-17.1 (2000).
  12. OHIO REV. CODE ANN. 3313.671 (Baldwin 2000). Good cause basis including religious beliefs but not simply personal beliefs.
  13. OKLA. STAT. tit. 70, 1210.192 (West 2000).
  14. UTAH CODE ANN. 53A-11-302 (2000).
  15. VT. STAT. ANN. tit. 18, 1122 (2000).
  16. WASH. REV. CODE 28A.210.090 (West 2000).
  17. WIS. STAT. ANN. 252.04(3) (West 2000).
  18. This list of states with a religious exemption does not include those states that only articulate the broader personal belief exemption.
  19. ALA. CODE 16-30-3 (2000).
  20. ARK. CODE ANN. 6-18-702 (2000).

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21. COLO. REV. STAT. 25-4-903 (West 2000).
  22. CONN. GEN. STAT. ANN. 10-204A (West 2000).
  23. DEL. CODE ANN. tit. 14, 131 (2000).
  24. D.C. CODE ANN. 31-506 (2000).
  25. FLA. STAT. ANN. 232.032 (West 2000).
  26. GA. CODE ANN. 20-2-771 (2000).
  27. HAW. REV. STAT. 325-34 (2000).
  28. IDAHO CODE 39-4802 (2000).
  29. ILL. ANN. STAT. ch. 105, para. 5/27-8.1 (Smith-Hurd 2000).
  30. IND. CODE ANN. 20-8.1-7-2 (West 2000).
  31. IOWA CODE ANN. 139.9 (West 2000).
  32. KAN. STAT. ANN. 72-5209(B) (2000).
  33. KY. REV. STAT. ANN. 214.036 (Baldwin 2000).
  34. ME. REV. STAT. ANN. tit. 20-A, 6355 (West 2000).
  35. MD. CODE ANN. HEALTH-GEN. 18-403 (2000).
  36. MASS. GEN. LAWS ANN. ch. 76, 15 (West 2000).
  37. MICH. COMP. LAWS ANN. 333.9215 (West 2000).
  38. MO. ANN. STAT. 167.181 (Vernon 2000).
  39. MONT. CODE ANN. 20-5-405 (2000).
  40. NEB. REV. STAT. 79-221 (2000).
  41. NEV. REV. STAT. ANN. 392.437 (Michie 2000)
  42. N.H. REV. STAT. ANN. 141-C:20-C (2000).
  43. N.J. STAT. ANN. 26:1A-9.1 (West 2000).

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44. N.M. STAT. ANN. 24-5-3 (Michie 2000).
  45. N.Y. PUB. HEALTH LAW CODE ANN. ' 2164 (Baldwin 2000).
  46. N.C. GEN. STAT. 130A-157 (2000).
  47. OHIO REV. CODE ANN. 3313.671 (Baldwin 2000).
  48. OR. REV. STAT. GEN. LAWS 433.267 (2000).
  49. PA. STAT. ANN. tit. 24, 13-1303a (2000).
  50. R.I. GEN. LAWS 16-38-2 (2000).
  51. S.C. CODE ANN. 44-29-180 (Law. Co-op 2000).
  52. S.D. CODIFIED LAWS ANN. 13-28-7.1 (2000).
  53. TENN. CODE ANN. 37-10-402 (2000).
  54. TEX. EDUC. CODE ANN. 38.001 (West 2000).
  55. UTAH CODE ANN. 53A-11-302 (2000).
  56. VT. STAT. ANN. tit. 18, 1122 (2000).
  57. VA. CODE ANN. 22.1-271.2 (Michie 2000).
  58. WASH. REV. CODE ANN. 28A.210.090 (West 2000).
  59. W. VA. CODE 16-3-4 (2000)(provides exemption for medical reasons or other sufficient reasons why immunizations have not been done. Religious objections could fall under this category).
  60. WIS. STAT. ANN. 252.04(3) (West 2000).
  61. WYO. STAT. 21-4-309 (2000).
  62. ALASKA STAT. 14.30.125 (2000)(Immunization statute, no exemptions or exceptions stated). Alaska exemption statutes, ALASKA STAT. 14.30.080-14.30.110 repealed by 59 ch. 98 SLA 1966.
  63. Brown v. Stone, 378 So.2d 218 (Miss. 1979), cert. denied 449 U.S. 887 (1980)(religious exemption struck down as a violation of the equal protection clause. Court held that exemption statute discriminated against those immunized by exposure to children who had not been immunized due to religious exemptions).

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64. Dalli v. Board of Educ., 267 N.E.2d 219 (Mass 1971)(court held that statute which gave religious exemption to a "recognized church or religious denomination" was unconstitutional because it gave preferred treatment to members of recognized religions over those who objected on religious grounds but were not members of a recognized religion). See also Sherr v. Northport-East Northport Union Free Sch. Dist., 672 F. Supp. 81 (E.D.N.Y. 1987)(court held, in part, that statute allowing immunization exemption to only "bona fide members of a recognized religious organization" whose doctrine opposed vaccinations violated the First Amendment's establishment and free exercise clauses).

65. Sherr, 672 F. Supp. at 89. See also Mason v. General Brown Cent. Sch. Dist., 851 F.2d 47, 52 (2nd Cir. 1988)(plaintiff's chiropractic ethical beliefs against inoculation were based on scientific and secular theories and did not qualify as a religious exemption.)

66. See Sherr, 672 F. Supp. at 94-97 (the court examined the sincerity of both sets of plaintiffs' religious beliefs. Sherr's beliefs found to be insincere.)

67. CAL. HEALTH & SAFETY CODE 120370 (West 2000); IND. CODE ANN. 20-8.1-7-2.5 (West 2000); MISS. CODE ANN. 41-23-37 (2000); NEB. REV. STAT. 79-221 (2000); NEV. REV. STAT. ANN. 392.439 (2000); N.J. ADMIN CODE tit. 8, 57-4.3 (2000); N.C. GEN STAT. 130A-156 (2000); TENN. CODE ANN. 49-6-5001 (2000). For medical exemption statutes for other states see endnotes 3-60.

68. See Jacobson, 197 U.S. at 39, where the Supreme Court urges the states to allow medical exemptions to immunization laws.