

# Legislative Analysis



## COVID-19 VACCINATION PRIVACY ACT

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<http://www.house.mi.gov/hfa>

### House Bill 4667 (proposed substitute H-4)

Sponsor: Rep. Sue Allor

Committee: Oversight

Complete to 5-12-21

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4667 would create a new act, the COVID-19 Vaccination Privacy Act, to prohibit a *governmental entity* from issuing a *COVID-19 vaccination passport*, requiring proof of vaccination status to access a public service, or imposing a penalty based on vaccination status. The bill would also allow civil actions to compel a governmental entity to comply with the act or to enjoin further noncompliance.

*COVID-19 vaccination passport* would mean a document or system created or used for the primary purpose of diminishing or enlarging an individual's civil and political rights, privileges, and capacities based on the individual's *COVID-19* vaccination status.

*COVID-19* would mean severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

*Governmental entity* would mean any of the following:

- A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in state government.
- A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, public university or college, special district, or municipal corporation or a board, department, commission, council, or agency of any of those entities.
- Any other body created by state or local authority or primarily funded by or through state or local authority.

#### Prohibited acts

Except as otherwise provided by federal law, a governmental entity could not do any of the following:

- Produce or issue, or enter into a contract with a person to produce or issue, a COVID-19 vaccination passport.
- Require an individual to provide documentation certifying his or her COVID-19 vaccination status to access a public service.
- Impose a fine, fee, or penalty on an individual based on his or her COVID-19 vaccination status.

#### Injunctive relief

If a governmental entity were not complying with the act, the attorney general, the prosecutor for the county in which the governmental entity serves, or a person could bring a civil action to compel compliance or to enjoin (stop) further noncompliance with the act. An action for mandamus (a court order for the governmental entity to do a specific act that the entity has a

legal duty or obligation to do but has not done) would have to be commenced in a court of appropriate jurisdiction. An action for injunctive relief against a local governmental entity would be brought in the circuit court in any county in which the entity serves. An action for injunctive relief against a state governmental entity would have to be commenced in the court of claims.

A person bringing an action for injunctive relief would not have to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

If a person brings an action for injunctive relief to compel the governmental entity to comply or to enjoin further noncompliance and succeeds in obtaining relief in the action, the person would recover court costs and actual attorney fees for the action.

**FISCAL IMPACT:**

The bill would have no direct fiscal impact on the state or local units of government. Any costs incurred would be contingent on a violation of the provisions of the bill.

The bill could lead to increased administrative expenses to the Department of the Attorney General (AG) and county prosecutor offices by allowing these entities to commence civil actions against public entities charged with not complying with the bill. The bill could lead to further increased costs to state and local public entities if a court ruling subjects those entities to pay settlement costs to the plaintiffs.

The bill allows, but does not require, the AG or county prosecutor office to commence a civil action, and any administrative costs related to dedicating staffing resources to commencing a civil action would be noncompulsory. It is not yet known how many court proceedings would commence as a result of the bill and whether these caseloads would require additional state and county legal staffing. The annual FTE cost for an attorney with the AG is approximately \$200,000.

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