

May 25, 2023

Carl Heastie
Speaker of the Assembly
1446 E Gun Hill Rd.
Bronx, NY 10469

Dear Speaker Carl Heastie:

It was recently brought to my attention, and Children's Health Defense (CHD), that the New York General Assembly Health Committee approved, and the Senate Health Committee is considering a bill (A276b/S762a) allowing children to, among other things, receive vaccinations "without the consent or knowledge of the parents."

We respectfully inform you that this bill directly conflicts with the National Childhood Vaccine Injury Act of 1986. Specifically, 42 USC 300aa-25 and 42 USC 300aa-26.¹ Therefore, this bill is clearly unconstitutional under the Supremacy Clause of the United States Constitution.

Children's Health Defense represented a group of parents challenging a very similar law, the District of Columbia Minor Consent For Vaccination Act, in *Booth v. Bowser* 597 F.Supp.3d 1 (2022). In that case, CHD sought, and a Federal District Court issued a preliminary injunction prohibiting enforcement of the law and the District of Columbia was forced to repeal it.

Below are the order² and opinion³ in *Booth v. Bowser* to illustrate how your new bill may also be deemed unlawful. As stated by U. S. District Court Judge Trevor N. McFadden, in the conclusion of his opinion in *Booth v. Bowser*, "States and the District are free to encourage individuals- including children to get vaccines. But they cannot transgress on the Program Congress created. And they cannot trample the Constitution."

¹

<https://www.govinfo.gov/content/pkg/USCODE-2016-title42/pdf/USCODE-2016-title42-chap6A-subchapXIX-part2-subpartc-se300aa-25.pdf>

² <https://childrenshealthdefense.org/wp-content/uploads/Booth-Preliminary-Injunction-Order.pdf>

³ <https://childrenshealthdefense.org/wp-content/uploads/PI-memo-opinion-DC-minor-case.pdf>

We have enclosed a Tennessee law, the **Mature Minor Doctrine Clarification Act**, which Governor Lee signed into law on May 17, 2023. Please note that Section 2(a)(1), of the Tennessee law, recognizes the applicability of 42 USC 300aa-26 of the National Childhood Vaccine Injury Act of 1986 (requiring that, prior to vaccinating a minor, the healthcare provider must provide to the minor's representative (*i.e.*, parent or guardian) a Vaccine Information Sheet), one of the sections of the federal law with which the proposed New York bill conflicts.

The language of and the issues raised by the New York bill and the enjoined and repealed former D.C. law are almost identical, and the new Tennessee law further supports that the New York bill is unconstitutional.

Children's Health Defense respectfully requests that you heed our warning that A276b/S762a is clearly unconstitutional.

Thank you for your time and consideration. If you have any questions, please feel free to contact me.

Sincerely,

/s/Rolf G. S. Hazlehurst

Rolf G. S. Hazlehurst

Senior Staff Attorney

Children's Health Defense

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cc: New York State Senators via email
New York State Assembly Members via email