



**AMERICAN ATHEISTS**

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December 12, 2019

The Honorable Joseph F. Vitale  
Chair, Senate Health, Human Services and Senior Citizens Committee  
PO Box 099  
Trenton, NJ 08625

**Re: AMEND NJ S2173, Testimony from American Atheists regarding a bill to protect young people through vaccination**

Dear Chairman Vitale and Members of the Senate Health, Human Services and Senior Citizens Committee:

American Atheists, on behalf of its more than 1,500 constituents in New Jersey, thanks you for considering the vitally important issue of vaccinations for young people in our state. While S2173 is a step in the right direction, this bill does not do enough to close loopholes that allow children to go unvaccinated. Vaccination is a vital public health issue and therefore we urge you to amend this legislation in order to fulfill its life-saving purpose — protecting children in New Jersey from preventable disease.

American Atheists is a national civil rights organization that works to achieve religious equality for all Americans by protecting what Thomas Jefferson called the “wall of separation” between government and religion created by the First Amendment. We strive to create an environment where atheism and atheists are accepted as members of our nation’s communities and where casual bigotry against our community is seen as abhorrent and unacceptable. We promote understanding of atheists through education, outreach, and community-building and work to end the stigma associated with being an atheist in America.

As advocates for the health, safety, and well-being of all Americans, American Atheists objects to efforts to subordinate medical care to the religious beliefs of providers and institutions.

New Jersey, like most states, has public health statutes that require that children be vaccinated to attend public schools. However, New Jersey currently allows for

exemptions from this general rule both for medical reasons and the religious tenets and practices of the student or the parent or guardian. While S2173 is intended to clarify these exemptions and close potential loopholes for so-called “political, sociological, philosophical, or moral views” or unfounded concerns about the safety or efficacy of vaccinations writ large, it leaves in place exemptions on the basis of religious belief which are both unnecessary as a matter of law and dangerous for public health.

Non-essential exemptions to immunization requirements endanger all children in order to accommodate the religious beliefs of a few. Such exemptions are unacceptable from both a public health and moral perspective. Successful population immunity to disease depends upon a significant level of vaccination, as high as 95% for some diseases.<sup>1</sup> Because some people are unable to receive vaccination for medical reasons, it is therefore inappropriate and dangerous to allow for arbitrary compliance by the rest of the population. This is the reason that every state has laws requiring immunization to attend public school. And, while S2173 requires an explanation of how the vaccination requirement conflicts with a “bona fide” religious tenet, in practice, these exemptions function no differently than the philosophical exemptions which are expressly prohibited in the bill.

The religious exemptions to New Jersey’s vaccination requirements put children at significant risk for contracting debilitating and potentially deadly infectious diseases. Children exempt from immunization requirements are more than 35 times more likely to contract measles<sup>2</sup> and nearly 6 times more likely to contract pertussis (whooping cough),<sup>3</sup> compared to immunized children.

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<sup>1</sup> Salathe, Marcel. (Feb. 3, 2015). *Why a few unvaccinated children are an even bigger threat than you think*. Washington Post. Available at [https://www.washingtonpost.com/posteverything/wp/2015/02/03/why-a-few-unvaccinated-children-are-an-even-bigger-threat-than-you-think/?utm\\_term=.69e466010275](https://www.washingtonpost.com/posteverything/wp/2015/02/03/why-a-few-unvaccinated-children-are-an-even-bigger-threat-than-you-think/?utm_term=.69e466010275).

<sup>2</sup> Salmon DA, Haber M, Gangarosa EJ, Phillips L, Smith NJ, Chen RT. (1999). *Health consequences of religious and philosophical exemptions from immunization laws: individual and societal risk of measles*. JAMA. 1999;282:47-53.

<sup>3</sup> Feikin DR, Lezotte DC, Hamman RF, Salmon DA, Chen RT, and Hoffman RE. (2007). *Individual and Community Risks of Measles and Pertussis Associated With Personal Exemptions to Immunization*. JAMA 2007;284:3145-3150.

According to the state health department, the number of religious exemptions granted in New Jersey increased to 12,300 in the 2017-2018 school year, up from just 1,641 in the 2005-2006 school year.<sup>4</sup> A study by the New Jersey Hospital Association found that the number of children whose families claimed religious exemptions from vaccination requirements jumped 53% in just the past five years.<sup>5</sup> In 2018, despite measles having been declared eradicated in the United States 18 years previous, the Centers for Disease Control and Prevention (CDC) confirmed 372 cases of the disease across the country, with New Jersey accounting for 10% of the national total.<sup>6</sup>

And this year, from January 1 until October 1, 2019, the CDC reports that 1,249 cases of measles were confirmed, the highest annual number since 1992. This number is particularly concerning because, according to the CDC, 86% of cases were associated with “underimmunized, close-knit communities, including two outbreaks in New York Orthodox Jewish communities.”<sup>7</sup>

In New York City, a measles outbreak started on September 30, 2018 and has seen more than 600 confirmed cases. In Rockland County, New York, another outbreak has seen more than 300 confirmed cases.<sup>8</sup>

The concentration of these cases among communities where parents have elected to use religious exemptions to vaccination requirement laws prompted New York to

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<sup>4</sup> Rabin, Roni Caryn. (June 19, 2019). *Eager to Limit Exemptions to Vaccination, States Face Staunch Resistance*. New York Times. Available at <https://www.nytimes.com/2019/06/14/health/vaccine-exemption-health.html>.

<sup>5</sup> Center for Health Analytics, Research & Transformation, New Jersey Hospital Association. *Lack of Immunizations Spreads Disease Threat Across New Jersey*. Available at <http://www.njha.com/media/567539/CHART-Immunization.pdf>.

<sup>6</sup> Measles Cases and Outbreaks | CDC. Retrieved December 11, 2019. Available at <https://www.cdc.gov/measles/cases-outbreaks.html>.

<sup>7</sup> Patel M, Lee AD, Clemmons NS, et al. National Update on Measles Cases and Outbreaks — United States, January 1–October 1, 2019. *MMWR Morb Mortal Wkly Rep* 2019;68:893–896. DOI: <http://dx.doi.org/10.15585/mmwr.mm6840e2>

<sup>8</sup> Cohen, Elizabeth. (September 3, 2019). *The US eliminated measles in 2000. The current outbreak could change that*. CNN. Available at <https://www.cnn.com/2019/08/28/health/us-measles-elimination-status-in-jeopardy/index.html>.

declare a state of emergency<sup>9</sup> and enact legislation to eliminate the state’s religious exemption. This legislation left in place medical exemptions for individuals whose doctors certify that immunization is contraindicated for the child.<sup>10</sup>

After signing the bill on June 13, Governor Andrew Cuomo said, “While I understand and respect freedom of religion, our first job is to protect the public health and by signing this measure into law, we will help prevent further transmissions and stop this outbreak right in its tracks.”<sup>11</sup>

There are numerous other examples which illustrate that outbreaks often occur in communities that are unsupportive of vaccination.<sup>12</sup> However, lawmakers have a responsibility to protect all youth, regardless of their religion or lack thereof. No young person should be subject to harm or illness based on the religious beliefs of their caretakers or their classmates.

Finally, we note that the religious exemptions in New Jersey’s current vaccination law and in S2173 are not required by the First Amendment of the U.S. Constitution. A number of states, including California, Mississippi, West Virginia, and now New York do not allow these types of religious exemptions.

As the U.S. Supreme Court has made clear, “The right to practice religion freely does not include liberty to expose the community or child to communicable disease, or the latter to ill health or death.... Parents may be free to become martyrs themselves. But it does not follow they are free, in identical circumstances, to make

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<sup>9</sup> Pager, Tyler and Mays, Jeffery. (April 9, 2019). *New York Declares Measles Emergency, Requiring Vaccinations in Parts of Brooklyn*. New York Times. Available at <https://www.nytimes.com/2019/04/09/nyregion/measles-vaccination-williamsburg.html>.

<sup>10</sup> Allyn, Bobby. (June 13, 2019). *New York Ends Religious Exemptions For Required Vaccines*. NPR. Available at <https://www.npr.org/2019/06/13/732501865/new-york-advances-bill-ending-religious-exemptions-for-vaccines-amid-health-cris>.

<sup>11</sup> *Id.*

<sup>12</sup> See, e.g., Genes, N. (June 20, 2006). *Measles in Boston: Collision of Church and State, Science and Journalism*. Medgadget. Available at [http://medgadget.com/2006/06/measles\\_in\\_bost.html](http://medgadget.com/2006/06/measles_in_bost.html); WebMD. (August 1, 2006). *Vaccination Fear Causes Measles Spate*. CBS News. Available at [http://www.cbsnews.com/2100-500368\\_162-1857987.html](http://www.cbsnews.com/2100-500368_162-1857987.html).

martyrs of their children before they reached the age of full and legal discretion when they can make that choice for themselves.”<sup>13</sup>

For these reasons, we strongly urge you to amend S2173 to effectively protect New Jersey’s children from preventable and potentially debilitating infectious diseases by eliminating religious exemptions as your colleagues in the Assembly did with a floor amendment to A3818 on January 31, 2019.<sup>14</sup> These exemptions undermine public health, jeopardize the health and safety of children and the broader community, and are ripe for abuse. Neither the U.S. Constitution nor New Jersey’s constitution or laws require that public health and safety be subordinated by religious beliefs, no matter how sincerely held.

Thank you for considering this critical issue. If you have any questions regarding American Atheists’ position on this legislation, please contact me at (908) 276-7300 x308 or by email at [nfish@atheists.org](mailto:nfish@atheists.org).

Sincerely,



Nick Fish  
President  
American Atheists

cc: *All Members of the New Jersey Senate Health, Human Services and Senior Citizens Committee*

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<sup>13</sup> Prince v. Massachusetts, 321 U.S. 158 (1944).

<sup>14</sup> Chesler, Caren. (February 7, 2019). *Lawmakers Move to End Religious Exemption for Mandatory Vaccinations*. NJ Spotlight. Available at <https://www.njspotlight.com/2019/02/19-02-06-lawmakers-moves-to-end-religious-exemption-for-mandatory-vaccinations/>.