Children's Health Defense

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July 18, 2025

Senator Ron Johnson
328 Hart Senate Office Building
Washington, DC 20510

Dear Senator Johnson,

Thank you for holding the "Voices of the Vaccine Injured" hearing and for inviting our Chief Scientific Officer Brian Hooker and CHD.TV Director Polly Tommey to be on the panel. The testimony was so moving that even Senator Blumenthal commented, "Maybe we ought to look at this system."

As set forth in more detail below, Children's Health Defense seeks to bring to your attention the fact that the Public Readiness and Emergency Preparedness (PREP) Act, enacted in 2005, is not only unconstitutional but is set to extend indefinitely beyond any specific COVID-19 protections (that inexplicably and irrationally do not expire until the end of 2029). We therefore urge you to introduce legislation to either abolish or amend the PREP Act. Under no circumstances should the PREP Act be allowed to continue while those who are harmed or killed continue to have little to no hope of any justice.

When Tucker Carlson recently asked HHS Secretary Robert F. Kennedy, Jr. about affording proper compensation for those injured by COVID-19 vaccines, he answered, "the big impediment is the 1986 Vaccine Act." This took many by surprise since COVID-19 vaccines are not covered by the National Childhood Vaccine Injury Act of 1986 (NCVIA); we are aware that the PREP Act is the real problem.

The PREP Act grants manufacturers and other 'covered persons'[1] immunity from suit and liability (until December 31, 2029)[2] for loss from nearly every type of conceivable injury:

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[1] 42 USC § 247d-6d(i)(2)

[2] Secretary Becerra declared the end of the COVID-19 Public Health Emergency on May 11, 2023. But the COVID-19 Covered Countermeasure protections continue until December 31, 2029 https://www.federalregister.gov/documents/2024/12/11/2024-29108/12th-amendment-to-declaration-under-the-public-readiness-and-emergency-preparedness-act-for-medical

> (A) Loss For purposes of this section, the term "loss" means any type of loss, including—(i) death; (ii) physical, mental, or emotional injury, illness, disability, or condition; (iii) fear of physical, mental, or emotional injury, illness, disability, or condition, including any need for medical monitoring; and (iv) loss of or damage to property, including business interruption loss.[3]

PREP's Countermeasures Injury Compensation Program (CICP) meanwhile is designed to limit even scant hope of compensation "on the rare chance you suffered a serious injury, or the death of a loved one, from the administration or use of a covered countermeasure."

> The term "serious physical injury" means an injury that— (A) is life threatening; (B) results in permanent impairment of a body function or permanent damage to a body structure; or (C) necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure. 42 USC § 247d-6d(i)(10)

I. In short, while manufacturers and other covered persons have extraordinarily broad liability protection, only those who've suffered certain life-ending or serious physical injuries may even file a CICP claim.

In five years, CICP has compensated only 39 COVID-19 claims

As of June 1, 2025, only 39 COVID-related claims have been compensated.[4] The median payout is approximately $4,182. The average payout for death or serious physical injury is approximately $80,157.

CICP excludes compensation for over 1.5 million reported injuries

Injuries such as headache, chest pain, digestive issues, dizziness, fatigue, nausea, and rapid heartbeat are not serious enough under the PREP Act to qualify for compensation since CICP only provides "compensation to an eligible individual[5] for a covered injury."[6] There are over 1.5 million ineligible adverse events according to VAERS[7] because those injuries, many of which are significant, were not life-threatening or life-ending. The CICP program does not cover the vast majority of injuries. The willful misconduct avenue with which to challenge private or public pandemic actions is essentially an illusion and is not available unless a CICP claim was filed first. For the majority of injuries, any remedy is an illusion since the PREP Act precludes such claims from the outset.

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[3] 42 U.S. Code § 247d-6d(a)(2)(A)
[4] https://www.hrsa.gov/cicp/cicp-data?utm_medium=email&utm_source=substack
[5] 42 USC § 247d-6e(e)(5)
[6] 42 USC § 247d-6e(e)(3)
[7] https://openvaers.com/covid-data

The PREP Act will continue after COVID-19 protections end

COVID-19 vaccines are "covered countermeasures" and protected by the PREP Act; Secretary Kennedy has sole discretion to end the Public Health Emergency (PHE) for COVID-19, an authority that is unreviewable by any court.

There are rumblings, and even more alarmingly, government assurances that new pandemics are on the horizon. The PREP Act keeps drugs, tests, injections, and other covered countermeasures from having to navigate the free market. Ignoring safety is endemic during a pandemic, especially when there is no downstream liability for manufacturers.

Regardless of whether Secretary Kennedy terminates extended COVID-19 protections, the PREP Act is not going away without Congressional action. Other current PREP Act Declarations include MPOX, Pandemic Influenza, Anthrax, and Zika.

COVID-19 Vaccines don't qualify for the NCVIA's Vaccine Injury Compensation Program (VICP)

COVID-19 vaccines may not be covered by VICP since the CDC just announced that COVID-19 vaccines are no longer recommended for routine administration to children or pregnant women, which is a requirement, according to the HRSA, for vaccines to be covered by VICP. Further, COVID-19 vaccines have never been subject to a 75-cent excise tax under federal law. Given the unprecedented severe injuries caused by COVID-19 vaccines, 75 cents doesn't appear to be sufficient to cover payouts in the VICP for COVID.

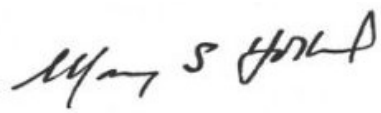
Secretary Kennedy went on to tell Tucker Carlson that he "just brought a guy in this week who is going to be revolutionizing the vaccine injury compensation program." If indeed Mr. Kennedy is "looking at ways to extend [VICP] so that COVID vaccine-injured people can be compensated," that will be no small task.

Since the enactment of the 1986 Act, children's health has radically declined. If vaccine manufacturer liability is restored, dangerous and unnecessary vaccines (or certain ingredients) will be taken off the market. I believe that day can't come soon enough.

We urge you to take action

The PREP Act clearly violates the Separation of Powers, the Fifth Amendment Substantive and Procedural Due Process guarantees, the Seventh Amendment Right to a Jury Trial, and the 10th Amendment. We are pleased to note that Congressman Massie proposed a bill in the House of Representatives to repeal the PREP Act on July 15, the day of your historic hearing.

If our experience over the past five years has taught us anything, it is this: If the PREP Act's extraordinary liability protections disappear, so do the experimental countermeasures. Take away the countermeasures, and you take away profits. Take away pandemic profits and lab-grown pandemics will never happen again.



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