

The US Vaccine Injury Act of 1986 Has Denied Hundreds of Thousands of Vaccine Victims Fair Compensation

*Designers of 1986 Tort Reform Law Knew the Odds of Vaccine Injury
Would Kill Off Victims & Lawsuits*

Immunization by vaccine is recognized as one of the greatest public health achievements of the 20th century, based on its impact on preventing death, illness, and disability (DIXIE E. SNIDER). However, in the 21st century the balance of public good has tilted decidedly against individual rights and protection under the law.

If you're taking your kid or grandparent into CVS, Walmart or a QuickCare for a routine vaccine, you should know the real costs of vaccination. The deck is stacked against your protection when it comes to a Vaccine Injury or a Vaccine Reaction by the little known Vaccine Injury Act of 1986.

It sounds nice, but the main problem of the Vaccine Injury Act is that it does not help the number of vaccine victims anywhere near close to the real number that vaccines injure.

The scary part is that the human costs and economic side effects of vaccination *were* taken into consideration and promptly dismissed in writing this act. When you learn the actual odds of a vaccine injury, you may conclude that Congress set up The Vaccine Injury Act knowing it would create an ongoing tragedy for hundreds of thousands of Americans.

In 1986, Congress enacted a tort reform law for vaccines called the Vaccine Compensation Injury Program. The thought was to induce Vaccine makers to produce and distribute needed vaccines by eliminating liability, reducing expensive product liability protection, as well as protecting pediatricians to give childhood vaccines with an unlimited liability protection. The [Vaccine Injury Act](#) was historic for several reasons.

The Vaccine Injury Act was one of the first long term, tort liability reforms ever enacted by the US Congress. The Vaccine Injury Act eliminated trials and jury awards for assessing vaccine injuries. Therein each victim of a vaccine would be limited to a Death or Pain and Suffering award of \$250,000. Thirty years and 100% inflation later, the cap has never been raised, but the cost of medical care has risen an average of 3-10% annually¹.



TRUTH IN GOVERNMENT: The Vaccine Injury Trust Fund gives out so little to vaccine victims (and so infrequently) that a third of its revenue is generated by interest on vaccine taxes already received.

¹ <http://www.forecast-chart.com/inflation-medical-care-cost.html>

Big pharma and the medical community got liability protections, but the vaccine victims got stuck with the side effects and now their state has little recourse for the costs of lifetime care.

The odds are further stacked against victims judicially on three more fronts by The Vaccine Injury Act.

The Act limited the venue for a vaccine claim strictly to the geography of Washington DC. By making anyone injured by a vaccine forced to argue before a section of the US Supreme Court, victims could not address a claim with a trial of their peers. Nor could Erin Brokovich gather them together as a Class Action suit should say, a batch of vaccine caused meningitis or HIV/AIDS.

Vaccine victims could no longer sue the manufacturer, the doctor or anyone else if they got hurt by a faulty or misleading vaccine. They could not subpoena or cross examine the parties either. Those hurt by a vaccine would now rely upon a hearing before one of the twelve lawyers at the Office of Special Master within the US Supreme Court. Vaccine victims would be judged from a table of injuries.

Even worse, the statute of the claim was limited in time and scope. The claim would have to be made within two of death or three years of symptom discovery. Thereafter, the plaintiff was up a creek.

As proof, only 8 of over five thousand documented cases of Autism were awarded from 2006 to 2011. At issue was whether a vaccine that contained heavy metals (primarily Thimerisol) had caused or contributed to Autism—which was only visible many years later after the child could talk. The most cited reason for these 4604 dismissed cases was that ‘timely causation’ could not be proven.

As to the scope of the Vaccine Injury Act, the injury symptoms on the table are highly limited and again judged from a limited table of injuries. These claims must show visible vaccine side effects within 4 to 72 hours of the vaccine. Imagine your insurance company paying for only limited cancer care treatments on only the cancer that showed up in the first 3 days. Do you think your State’s Insurance Commissioner might object to those policy exclusions?

Now try proving a Vaccine Injury with the following scenario: Imagine a wailing 6 month old child who is inconsolable because his brain is inflamed from a vaccine reaction. Try proving the injury with a note from an ER intern at a QuickCare.

Again think of three long days and night of a screaming baby. Try having the presence of mind to search on your mobile phone using maybe, WEBMD. Search for vaccine reaction symptoms and how to document a vaccine injury or death –literally while your child is dying right before your eyes.

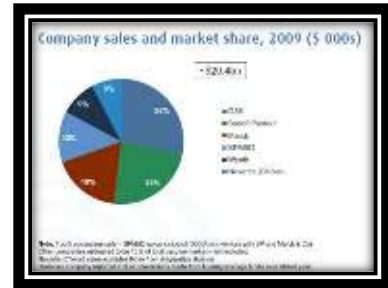
Do you think that would be a good time to learn that you have no right to sue anyone and that your rights were dismissed by Congress in 1986???

The image shows a table titled "National Childhood Vaccine Injury Act Vaccine Injury Table". The table lists various vaccines and the conditions covered under the Act, along with the time period for the first symptoms or manifestation of an injury. The table is organized into columns: Vaccine, Injury, Disability, Injury or Condition Covered, and Time period for first symptoms or manifestation of injury or of significant aggravation or other adverse sequelae.

Vaccine	Injury, Disability, Injury or Condition Covered	Time period for first symptoms or manifestation of injury or of significant aggravation or other adverse sequelae
I. Vaccine containing aluminum (e.g., DTaP, DTP, DT, D, T)	A. Anaphylaxis or anaphylactic shock B. Brachial neuritis C. Any acute complication or sequelae (including death) of an illness, disability, injury, or condition referred to above which others, disability, injury, or condition occur within the time period prescribed.	4 hours 2-36 days Not applicable
II. Vaccine containing whole cell pertussis toxin, excised or partially excised pertussis, or specific pertussis antigens (e.g., DTaP, DTP, D, T, DTaP-IPV)	A. Anaphylaxis or anaphylactic shock B. Encephalopathy (or sequelae) C. Any acute complication or sequelae (including death) of an illness, disability, injury, or condition referred to above which others, disability, injury, or condition occur within the time period prescribed.	4 hours 72 hours Not applicable
III. Mumps, measles and mumps vaccine or any of its components (e.g., MMR, MMR, M, M)	A. Anaphylaxis or anaphylactic shock B. Encephalopathy (or sequelae) C. Any acute complication or sequelae (including death) of an illness, disability, injury, or condition referred to above which others, disability, injury, or condition occur within the time period prescribed.	4 hours 4-12 days (but less than 15 days after 14 days) but 15 days
IV. Vaccine containing latex (e.g., MMR, MMR, M)	A. Systemic anaphylaxis B. Any acute complication or sequelae (including death) of an illness, disability, injury, or condition referred to above which others, disability, injury, or condition occur within the time period prescribed.	Not applicable Not applicable
V. Vaccine containing modified live virus (e.g., MMR, MMR, M)	A. Systemic anaphylaxis B. Vaccine strain (including viral infection) of an immunodeficient recipient C. Any acute complication or sequelae (including death) of an illness, disability, injury, or condition referred to above which others, disability, injury, or condition occur within the time period prescribed.	Not applicable 0 months Not applicable
VI. Vaccine containing gelatin (e.g., DTaP)	A. Systemic anaphylaxis B. Vaccine strain (including viral infection) of an immunodeficient recipient C. Any acute complication or sequelae (including death) of an illness, disability, injury, or condition referred to above which others, disability, injury, or condition occur within the time period prescribed.	Not applicable Not applicable Not applicable

As of this writing, there is no universal release, mass communication nor documentation provided to parents on what to watch out for following a vaccination or how to document a vaccine side effect. But there is a mandatory, national liability protection.

To be clear, the Vaccine Injury Act was passed by Congress at the specific request of pharmaceutical companies who threatened to stop making vaccines without product liability protection, as well as organizations representing pediatricians reluctant to give childhood vaccines without liability protection. The argument was that there was no profit for drug makers to make vaccines unless liabilities were removed. The premise continues to be a ridiculous giveaway:



Today, annual sales of vaccines in the United States presently average \$1 billion each. For example, the conjugate pneumococcal vaccine for children (Prevnar), the highest-revenue-generating vaccine, has annual gross U.S. sales of about \$1 billion.² In 2011, Gardasil an HPV Vaccine made by Merck Frost Pharmaceuticals sold \$1.1 Billion of it's vaccine product. There are over 18 vaccines given this frequently and total US vaccine sales were estimated at over \$20 billion in 2009.

You can tell how many vaccines are given annually by the size of the Treasury Trust Fund that sets aside money to pay Vaccine Injury Compensation. The Vaccine Injury Trust Fund is now over \$3.4 billion dollars and was built on a \$.75 cent tax charged on each vaccine over the last 30 years. Removing interest for the fund suggests over 2.1 billion vaccinations occurred in the US since 1986. And the trend toward greater vaccination is growing. \$65 million in vaccine taxes was collected in the nine months ending Sept 2012 --representing 86.9 million vaccinations annually.

Two things are apparent. The buyer of a vaccine is taxed without representation and The Vaccine Injury Act is designed to make Losers out of Vaccine Victims.

Again as proof, The Vaccine Injury Trust Fund gives out so little and so infrequently to vaccine victims that a third of trust funds are generated by interest on treasury bills alone. And the \$3,400,000,000 Vaccine Injury Trust Fund Grows While 2/3rds of Vaccine Injury Claims Are Dismissed.

YOUR ODDS ON VACCINE INJURY ARE SOBERING:

You should know that for each of the 64 times your child is expected to receive a vaccine in their lifetime, they have about a 3 in a million chance of Anaphylactic Shock or the brain disorder, **Postvaccinal Encephalitis**.

Statistically, vaccines are known or thought to cause 12 cases of Anaphylactic Shock per 100,000 doses³. That means for 2.1 billion vaccines given in the US since inception of The Vaccine Injury Act, up to 63,466 may have had a severe vaccine reaction. This also means 25,000 to 50,000 American families were denied redress from vaccine injury without ever talking to a lawyer.

² <http://content.healthaffairs.org/content/24/3/622.full> May 2005

³

Anaphylactic shock after vaccination "extremely rare" --12 cases 100,00 doses <http://group.bmj.com/group/media/latest-news/Anaphylactic%20shock%20after%20vaccination%202011extremely%20rare201d.pdf>

Next are victims of Postvaccinal Encephalitis (the brain disorder). That's another potential 25,000 to 50,000 families left on their own to fight against a vaccine reaction.⁴

Basically, the odds that you're going to have a serious vaccine reaction are about three times the odds of dying in a bathtub every time you take a bath. But in this case, you can't sue Kohler for a slippery tub surface. And you probably didn't know about the liability limitation of vaccines and you have probably heard all the medical benefits of a vaccine about 200 times in the last ten years—but not one of the side effects.

Instead, there is about 186 chances in a million your child will need extended medical care for a vaccine reaction sometime in their lifetime. And Congress won't let you ever sue *anybody* for making a bad vaccine, nor can you sue your doctor for recommending a vaccine. The odds are the vaccine will hurt some people, but you won't know it. The actual odds of winning or losing that game are more visible and disclaimed on a Monopoly ticket from McDonald's.

Doctors, politicians, judges and pharmaceutical companies alike all know that inducing a foreign substance in the human body (like a vaccine), will always cause a severe reaction such as Anaphylactic Shock or the brain disorder, **Postvaccinal Encephalitis** at these odds.

Yet following the Vaccine Injury Act in the US, and studied after one and one half billion vaccinations later --only 3,091 Vaccine Injury Awards have ever been given out.

Only a total of 13,260 vaccine injury claims have ever been *filed* under the US Vaccine Injury Act since 1986. Three times as many cases have been dismissed as awarded. But that's just the two primary side effects on the compensation tables of the Vaccine Injury Act.

God forbid, your kid's vaccine is off table. Then it can be dismissed without review.

CONCLUSION:

For years, justice has been denied over and over to parents, kids and family members left with the side effects of a vaccine. At present, there is no court able to deliver adequate care or compensation for the vast majority of vaccine victims. A twenty five year history has clearly proven The Vaccine Injury Act left hundreds of thousands without redress.

We, therefore propose these five swift actions by the American People and Their Elected Officials:

1. Congress Should Rehabilitate The Vaccine Injury Act by 2014.
2. The Court Should Widen It's Vaccine Injury Table to Reflect Modern Medicine.
3. Individual States Should Review Their Costs of Caring for Vaccine Victims And Press For Federal Reimbursement from The \$3.4B Vaccine Injury Trust Fund
4. Prior to Vaccination a Release Should Be Provided to those vaccinated –as to the Expected Vaccine Side Effects, the existence and limited liabilities of the Vaccine Injury Act, and the Vaccine Compensation Court with a Federally Required Vaccine Disclosure Signed by the Recipient

⁴ Adverse Events Associated with Childhood Vaccines: Evidence Bearing on Casuality 1994, National Academy of Sciences "1.79 cases of encephalitis per 1 million doses of vaccine distributed (White, 1983). These data are based on hospital admissions associated with International Classification of Diseases codes for "viral encephalitis unspecified" and "acute viral encephalitis.""

5. It should be a Federal misdemeanor (subject to a \$2,000 fine) for failure to report and document every material incident of vaccine side effect on the VAERS system.

About the Authors:

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Mr. Pournelle is a non-attorney spokesperson for Nations Vaccine Claim. Nations Vaccine Claim is headed by [Vaccine Lawyers recognized to file claims before the National Vaccine Injury Compensation Program \(VICP\) by the United States Supreme Court](#). N.V.C. represents vaccine injury claims throughout the United States. Nations Vaccine Claim is a law firm dedicated to protecting the rights of vaccine victims and helping get the most compensation possible.

At Nations Vaccine Claim There's Never an Attorney Fee. For more information on vaccine injury claims and a free Vaccine Claim Review by a vaccine attorney, contact 800-373-0202 or visit <http://www.NationsVaccineClaim.com>.