

1 INTERIM STUDY PROPOSAL 2015-080

2 State of Arkansas
3 90th General Assembly
4 Regular Session, 2015

As Engrossed: H3/16/15

A Bill

HOUSE BILL 1827

5
6 By: Representative Lowery

7 Filed with: House Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT CREATING THE PARENTS' BILL OF RIGHTS;
11 PROHIBITING CERTAIN ACTIONS BY GOVERNMENTAL ENTITIES;
12 SPECIFYING RIGHTS RESERVED TO A PARENT OR CUSTODIAN;
13 CLARIFYING THE OBLIGATIONS OF SCHOOL DISTRICTS AND
14 CHARTER SCHOOLS; PROHIBITING CERTAIN ACTIONS WITHOUT
15 CONSENT OF A PARENT OR GUARDIAN; AND FOR OTHER
16 PURPOSES.

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19 **Subtitle**

20 CREATING THE PARENTS' BILL OF RIGHTS;
21 PROHIBITING CERTAIN ACTIONS; SPECIFYING
22 RIGHTS; CLARIFYING THE OBLIGATIONS OF
23 SCHOOL DISTRICTS AND CHARTER SCHOOLS; AND
24 PROHIBITING CERTAIN ACTIONS WITHOUT
25 CONSENT OF A PARENT OR CUSTODIAN.

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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

29
30 SECTION 1. Arkansas Code Title 9, Subtitle 3, is amended to add an
31 additional chapter to read as follows:

32 Chapter 35

33 Parents' Bill of Rights

34 9-35-101. Title.

35 This chapter shall be known and may be cited as the "Parents' Bill of
36 Rights Act".

1
2 9-35-302. Definitions.

3 As used in this chapter:

4 (1) "Custodian" means the custodial parent, legal guardian, or
5 lawful custodian of a minor child as determined by a court of competent
6 jurisdiction in the state;

7 (2) "Parent" means a natural or adoptive parent of a minor child
8 as determined by a court of competent jurisdiction in the state;

9 (3) "Person" means a natural person, corporation, association,
10 copartnership, or one (1) or more individuals; and

11 (4) "State" means the State of Arkansas, a political subdivision
12 of the State of Arkansas, or other governmental entity of the State of
13 Arkansas.

14
15 9-35-103. Fundamental rights.

16 (a)(1) A parent or custodian has a fundamental right to direct the
17 upbringing, education, health care, and mental health of his or her minor
18 child, including without limitation the right to:

19 (A) Direct the education of the minor child;

20 (B) Review all school records relating to the minor child
21 and other rights under Title 6 of the Arkansas Code;

22 (C) Direct the moral or religious training of the minor
23 child;

24 (D) Make healthcare decisions for the minor child, unless
25 otherwise prohibited by law; and

26 (E) Review the medical records of the minor child unless:

27 (i) Otherwise prohibited by law; or

28 (ii) The parent is the subject of an investigation
29 of a crime committed against the minor child and a law enforcement official
30 requests that the information not be released.

31 (b) The state shall not infringe on the fundamental rights of a parent
32 without demonstrating that the compelling governmental interest as applied to
33 the child involved is:

34 (1) Of the highest order;

35 (2) Narrowly tailored; and

36 (3) Not otherwise served by a less restrictive means.

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2 9-35-104. Biometric scan – Deoxyribonucleic acid.

3 A parent must consent in writing before either of the following is
4 created, shared, or stored:

5 (1) A biometric scan of the minor child; or

6 (2)(A) A record of the minor child’s blood or deoxyribonucleic
7 acid.

8 (B) When the record of the minor child’s blood or
9 deoxyribonucleic acid is authorized under § 20-16-507 or pursuant to a court
10 order, a parent’s written consent is not required to create, share, or store
11 the record of a child’s blood or deoxyribonucleic acid.

12
13 9-35-105. Video – Picture – Audio.

14 A parent must consent in writing before the state takes a video,
15 picture, or voice recording of the minor child unless:

16 (1) The video, picture, or voice recording is made during or as
17 a part of:

18 (A) A court proceeding;

19 (B) A law enforcement investigation;

20 (C) An interview in a criminal investigation;

21 (D) An interview in a Department of Human Services investigation; or

22 (E) An interview in a Crimes Against Children Division
23 investigation; or

24 (2) The video, picture, or voice recording is used solely for
25 the following:

26 (A) A safety demonstration;

27 (B) Surveillance of state buildings or grounds;

28 (C) A photo identification card; or

29 (D) A school:

30 (i) To maintain order and discipline in the common
31 areas of a school or on student transportation vehicles;

32 (ii) For a purpose related to a legitimate academic
33 or extracurricular activity; or

34 (iii) For a purpose related to regular classroom
35 instruction.

36

1 9-35-106. Criminal offense – Notice.

2 (a) A parent or custodian shall be notified promptly if an employee of
3 this state suspects that a criminal offense has been committed against a
4 minor child by someone other than a parent or custodian.

5 (b) A parent or custodian shall not be notified when the criminal
6 offense is reported to law enforcement and the notification of the parent
7 would impede a law enforcement or Department of Human Services investigation.

8 (c) This section does not create any new obligation for school
9 districts and charter schools to report misconduct between students at
10 school, such as fighting or aggressive play, that is routinely addressed as a
11 student disciplinary matter by the school.

12
13 9-35-107. School procedure.

14 (a) The school district board of directors shall consult with parents,
15 teachers, and school administrators to develop and adopt a policy to promote
16 the involvement of parents of children enrolled in the schools within the
17 school district, including without limitation a procedure:

18 (1) For parent participation in the schools that is designed to
19 improve parent and teacher cooperation, including without limitation the
20 following areas:

21 (A) Homework;

22 (B) Attendance; and

23 (C) Discipline;

24 (2) To educate a parent or custodian about the course of study
25 for his or her child and review learning materials, including the source of
26 supplemental educational materials;

27 (3)(A) For a parent or custodian who objects to learning
28 material or an activity on the basis that it is harmful to withdraw his or
29 her child from the activity or from the class program in which the material
30 is used.

31 (B) An objection to a learning material or activity by a
32 parent or custodian on the basis that it is harmful may include an objection
33 to a material or activity because it questions beliefs or practices in sex,
34 morality, or religion;

35 (4)(A) For a parent or custodian to opt out his or her child
36 from the sex education curricula provided by a school.

1 (B) A parent's objection shall be in writing;

2 (5) To notify a parent or custodian in advance of and give the
3 parent or custodian an opportunity to withdraw his or her child from
4 instruction or presentation regarding sexuality in courses other than formal
5 sex education curricula.

6 (6) By which a parent or custodian may learn about the nature
7 and purpose of:

8 (A) A club and activity that is part of the school
9 curriculum; and

10 (B) An extracurricular club and activity that has been
11 approved by the school; and

12 (7) For a parent to learn about parental rights and obligations,
13 including without limitation the following:

14 (A) The right to opt out of a sex education curriculum if
15 one is provided by the school district;

16 (B) Open enrollment rights;

17 (C) The right to opt out of assignments under this
18 section;

19 (D) The right to be exempt from immunization under the
20 rules promulgated by the State Board of Health under § 6-18-702;

21 (E) The promotion requirements under §§ 6-15-2004 and 6-
22 15-2004;

23 (F) The minimum course of study and competency
24 requirements for graduation from high school designated by the State Board of
25 Education;

26 (G) The right to opt out of instruction on acquired immune
27 deficiency syndrome;

28 (H) The right to review test results;

29 (I) The right to participate in a gifted program under §
30 6-42-101 et seq.;

31 (J) The right to inspect instructional materials used in
32 connection with a research or experimentation program or project;

33 (K) The right to receive a school report card;

34 (L) The attendance requirements under § 6-18-201 et seq.;

35 (M) The right to public review of a course of study and
36 textbook;

1 (N) The right to be excused from school attendance for
2 religious purposes;

3 (O) Policies related to parental involvement under this
4 section;

5 (P) The right to participate in a parent-teacher
6 association and organization that is sanctioned by the board of education of
7 a school district; and

8 (Q) The right to opt out of any data collection instrument
9 at the district level that would capture data for inclusion in the state
10 longitudinal student data system except what is necessary for establishing a
11 student's public school record or to comply with federal law.

12 (b) The school district board of directors may adopt a policy to
13 provide to parents the information required by this section in an electronic
14 form.

15 (c)(1) A parent or custodian shall submit a written request for
16 information under this section during regular business hours to either the
17 school principal at the school site or the superintendent of the school
18 district at the office of the school district.

19 (2)(A) Within ten (10) days of receiving the request for
20 information, the school principal or the superintendent of the school
21 district shall either deliver the requested information to the parent or
22 submit to the parent a written explanation of the reasons for the denial of
23 the requested information.

24 (B)(i) If the request for information is denied or the
25 parent or custodian does not receive the requested information within fifteen
26 (15) days after submitting the request for information, the parent or
27 custodian may submit a written request for the information to the school
28 district board of directors.

29 (ii)(a) The school district board of directors shall
30 consider the request at the next scheduled public meeting of the school
31 district board of directors if the request can be properly noticed as an
32 agenda item.

33 (b) If the request cannot be properly noticed
34 and placed on the agenda, the school district board of directors shall
35 consider the request at the next public meeting of the school district board
36 of directors.

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2 9-35-108. Surgical procedure – Prescription drug – Physical
3 examination – Mental health evaluation.

4 (a) Except as otherwise provided by law, a person without written
5 consent from a parent or custodian may not:

6 (1) Prescribe a prescription drug; or

7 (2) Procure, solicit to perform, arrange for the performance of,
8 or perform on a minor:

9 (A) A surgical procedure; or

10 (B) A physical examination.

11 (b) A hospital as defined under § 20-9-201 shall obtain written
12 consent before permitting a surgical procedure to be performed on a minor in
13 its facilities.

14 (c) Subsections (a) and (b) of this section do not apply when:

15 (1) There has been a diligent search for the parent or custodian
16 and the parent or custodian cannot be located or contacted;

17 (2) The surgical procedure is an abortion, which is governed by
18 Title 20 of the Arkansas Code; or

19 (3) A physician determines that:

20 (A) An emergency exists; and

21 (B) It is necessary to perform the surgical procedure for
22 the treatment of an injury, drug abuse, or to save the life of the patient.

23 (d)(1) Except as otherwise provided by law or a court order, a person
24 without written consent from a parent or custodian may not procure, solicit
25 to perform, or arrange for the performance of or perform in a clinical or
26 nonclinical setting:

27 (A) A mental health evaluation; or

28 (B) Mental health treatment.

29 (2) If the parental or custodial consent is given through
30 telemedicine, the health professional must verify the identity of the parent
31 or custodian at the site where the consent is given.

32 (3) This subsection does not apply when an emergency exists that
33 requires a person to perform a mental health screening or provide mental
34 health intervention to prevent serious injury to or save the life of a minor
35 child.

36 (e) A person who violates subsection (a), (b), or (d) of this section

1 is guilty of a misdemeanor, punishable by a fine of not more than one
2 thousand dollars (\$1,000) or imprisonment of not more than one (1) year, or
3 both.

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5 */s/Lowery*

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8 Referred by the Arkansas House of Representatives

9 Prepared by: VJF

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