

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/16/15
A Bill

HOUSE BILL 1827

By: Representative Lowery

For An Act To Be Entitled

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

Subtitle

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

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

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

Chapter 35

Parents' Bill of Rights

9-35-101. Title.

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

9-35-302. Definitions.



As used in this chapter:

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

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

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

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

9-35-103. Fundamental rights.

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

(A) Direct the education of the minor child;

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

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

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

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

(i) Otherwise prohibited by law; or

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

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

(1) Of the highest order;

(2) Narrowly tailored; and

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

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

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

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

(2)(A) A record of the minor child's blood or deoxyribonucleic acid.

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

9-35-105. Video – Picture – Audio.

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

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

(A) A court proceeding;

(B) A law enforcement investigation;

(C) An interview in a criminal investigation;

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

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

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

(A) A safety demonstration;

(B) Surveillance of state buildings or grounds;

(C) A photo identification card; or

(D) A school:

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

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

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

9-35-106. Criminal offense – Notice.

(a) A parent or custodian shall be notified promptly if an employee of

this state suspects that a criminal offense has been committed against a minor child by someone other than a parent or custodian.

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

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

9-35-107. School procedure.

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

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

(A) Homework;

(B) Attendance; and

(C) Discipline;

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

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

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

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

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

(5) To notify a parent or custodian in advance of and give the

parent or custodian an opportunity to withdraw his or her child from instruction or presentation regarding sexuality in courses other than formal sex education curricula.

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

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

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

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

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

(B) Open enrollment rights;

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

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

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

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

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

(H) The right to review test results;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9-35-108. Surgical procedure – Prescription drug – Physical

examination – Mental health evaluation.

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

(1) Prescribe a prescription drug; or

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

(A) A surgical procedure; or

(B) A physical examination.

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

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

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

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

(3) A physician determines that:

(A) An emergency exists; and

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

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

(A) A mental health evaluation; or

(B) Mental health treatment.

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

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

(e) A person who violates subsection (a), (b), or (d) of this section is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment of not more than one (1) year, or

both.

/s/Lowery