

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

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

SENATE BILL 642

By: Senator J. Petty
By: Representative Furman

For An Act To Be Entitled

AN ACT TO CREATE THE FAMILIES' RIGHTS AND
RESPONSIBILITIES ACT; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE FAMILIES' RIGHTS AND
RESPONSIBILITIES ACT.

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

SECTION 1. Arkansas Code Title 16, Chapter 123, is amended to add an additional subchapter to read as follows:

Subchapter 7 – Families' Rights and Responsibilities Act

16-123-701. Title.

This subchapter shall be known and may be cited as the "Families' Rights and Responsibilities Act".

16-123-702. Legislative intent.

It is the intent of the General Assembly to:

(1) Codify the strict scrutiny standard set forth in Linder v. Linder, 348 Ark. 322, 348, 72 S.W.3d 841, 855 (2002) and to guarantee the application of the strict scrutiny standard in all cases in which the fundamental right of a parent is substantially burdened; and

(2) Provide a claim or defense to a parent whose fundamental right is substantially burdened.

16-123-703. Definitions.



As used in this subchapter:

(1) "Biometric data":

(A) Means data generated by automatic measurements of an individual's biological characteristics, including without limitation a fingerprint, a voiceprint, eye retina or iris detection or tracking, data relative to analysis of facial expressions, electroencephalogram brain wave patterns, skin conductance, galvanic skin response, heart-rate variability, pulse, blood volume, posture, or other unique biological pattern or characteristic that is used to identify a specific individual; and

(B) Does not include:

(i) A physical or digital photograph;

(ii) A video recording or an audio recording, or data generated from a video recording or an audio recording;

(iii) Information collected, used, or stored for healthcare treatment, payment, or operations under the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as it existed on January 1, 2025; or

(iv) Data or information collected, used, or stored for law enforcement purposes;

(2) "Child" means an unemancipated person who has not attained eighteen (18) years of age;

(3) "Compelling governmental interest" means a government interest of the highest order as long-recognized in the history and traditions of this state that is necessary to advance a vital interest and cannot otherwise be achieved without burdening the exercise of the fundamental rights of a parent;

(4) "Decision-making authority" means the power granted by the state to a person who is not the parent of a child to make important decisions regarding the child, including without limitation decisions regarding the child's education, religious training, health care, extracurricular activities, and travel;

(5) "Government" means a branch, department, agency, instrumentality, political subdivision, official, or other person acting under color of state law or using any instrumentality of the state to enforce a law, regulation, rule, or policy of the state or any political subdivision of the state;

(6) "Non-emergency first aid" includes without limitation dressing minor wounds, applying topical agents, providing fluids or ice, and performing checks to identify minor illnesses; and

(7) "Parent" means a legal parent or an individual who has been granted decision-making authority over a child under state law.

16-123-704. Parental rights protected.

(a) The liberty of a parent to the care, custody, and control of the parent's child, including without limitation the right to direct the upbringing, education, health care, and mental health of the child, is a fundamental right.

(b) The government shall not substantially burden the fundamental right of a parent provided under this section unless it is demonstrated that the burden, as applied to the parent and the child, is:

(1) Essential to further a compelling governmental interest; and

(2) The least restrictive means of furthering that compelling governmental interest.

(c) All parental rights are exclusively reserved to a parent of a child without obstruction by or interference from the government, including without limitation the right and responsibility to:

(1) Direct the:

(A) Upbringing of the child;

(B) Moral or religious training of the child; and

(C) Education of the child, including without limitation the right to choose a public, private, religious, or home school, or combination thereof, and the right to make reasonable choices within a public school for the education of the child, including without limitation those choices protected by § 6-15-1702;

(2) Make all physical and mental healthcare decisions for the child and consent to all physical and mental health care on the child's behalf;

(3) Access and review all:

(A) Health and medical records of the child; and

(B) Educational records of the child maintained by a school;

(4) Have the child excused from school attendance for religious

purposes;

(5) Participate in parent-teacher associations or organizations and other school-sanctioned groups that foster parental and community involvement within the child's school;

(6) Be notified promptly if an employee of the government reasonably believes that child maltreatment of or any criminal offense has been committed against the child by someone other than the parent, unless:

(A) Notification under this subdivision (c)(6) would interfere with:

(i) An investigation by the Department of Human Services under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;

(ii) An investigation by the Division of Arkansas State Police under the Child Maltreatment Act, § 12-18-101 et seq.; or

(iii) A criminal investigation; or

(B) The employee of the government is required by law to withhold the information concerning the alleged child maltreatment or criminal offense committed against the child by someone other than the parent;

(7) Consent to the:

(A) Collection, storing, or sharing of any biometric data of the child before the collection, storing, or sharing of any individual biometric data of the child takes place; and

(B) Creation, storage, or sharing of any record of the child's blood or DNA before the record is created, stored, or shared, unless authorized by law or a court order; and

(8) Making of a video recording or voice recording of the child before the government makes a video or voice recording of the child, unless the video recording or voice recording is made during or as a part of:

(A) A court proceeding;

(B) A law enforcement interaction;

(C) A forensic interview in:

(i) An investigation by the Department of Human Services under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;

(ii) An investigation by the Division of Arkansas State Police under the Child Maltreatment Act, § 12-18-101 et seq.; or

(iii) A criminal investigation;

(D) The security or surveillance of buildings or grounds;

(E) A photo identification card; or

(F) A public event where the child has no reasonable expectation of privacy.

(d) This section does not authorize or allow any individual to:

(1) Subject a child to abuse or neglect as defined in § 9-27-303 or § 12-18-103; or

(2) Otherwise cause a child to be a dependent-neglected juvenile as defined in § 9-27-303 or subject a child to child maltreatment as defined in § 12-18-103.

(e) A parent's rights under subdivision (c)(3) of this section are not violated when:

(1) A parent of a child has given consent authorizing a healthcare institution or a healthcare provider to administer health care to that parent's child;

(2) An agent of the government or any other person reasonably relies in good faith on an individual's representations that the individual is the parent of a minor or has otherwise been granted authority to make healthcare decisions regarding a minor's care under state law;

(3) A person assists a child under § 17-95-101, otherwise known as the "Good Samaritan" law; or

(4) A person acts reasonably to render appropriate, non-emergency first aid to a minor appearing or represented to be sick or injured.

16-123-705. Remedies for violations.

(a) A parent whose rights have been substantially burdened or will be substantially burdened in violation of this subchapter may:

(1) Assert a violation or an impending violation of this subchapter as a claim or defense in a judicial or administrative proceeding, regardless of whether the government is a party to the proceeding; and

(2) Obtain appropriate relief against the government, including without limitation:

(A) Declaratory relief;

(B) Injunctive relief;

(C) Compensatory damages; and

(D) Reasonable attorney's fees and costs.

(b) An action under this subchapter may be commenced and relief may be granted regardless of whether the person commencing the action has sought or exhausted all available administrative remedies.

16-123-706. Construction and applicability.

(a) This subchapter applies to all state law and the implementation of state law, whether statutory or otherwise, and whether the state law is adopted before or after the effective date of this act.

(b) State statutes adopted after the effective date of this act are subject to this subchapter unless the state statute explicitly excludes application by reference to this subchapter.

(c) This subchapter does not authorize the government to burden the fundamental rights of a parent.

16-123-707. Interpretation.

(a) The protections of the fundamental rights of a parent afforded by this subchapter are in addition to the protections provided by the Arkansas Constitution, the United States Constitution, and other state and federal law.

(b) This subchapter favors a broad protection of the fundamental rights of a parent to the custody, care, and control of his or her child, including without limitation the right to direct the upbringing, education, health care, and mental health of his or her child, to the maximum extent permitted by the Arkansas Constitution and the United States Constitution.

(c) This subchapter does not grant any person a right to access any surgical or medical treatment or procedure that has been prohibited by state law.

(d) The enumeration of parental rights in this subchapter do not abridge any additional parental rights codified or recognized under applicable law or to prohibit the recognition of additional parental rights.