

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SENATE BILL 1309

AN ACT

AMENDING TITLE 1, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 6; AMENDING SECTION 15-102, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 22, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-2272 AND 36-2273; REPEALING SECTION 44-132.01, ARIZONA REVISED STATUTES; RELATING TO PARENTS' RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 1, Arizona Revised Statutes, is amended by adding
3 chapter 6, to read:

4 CHAPTER 6

5 PARENTS' RIGHTS

6 ARTICLE 1. PARENTS' BILL OF RIGHTS

7 1-601. Parents' rights protected

8 A. THE LIBERTY OF PARENTS TO DIRECT THE UPBRINGING, EDUCATION, HEALTH
9 CARE AND MENTAL HEALTH OF THEIR CHILDREN IS A FUNDAMENTAL RIGHT.

10 B. THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER
11 GOVERNMENTAL ENTITY SHALL NOT INFRINGE ON THESE RIGHTS WITHOUT DEMONSTRATING
12 THAT THE COMPELLING GOVERNMENTAL INTEREST AS APPLIED TO THE CHILD INVOLVED IS
13 OF THE HIGHEST ORDER, IS NARROWLY TAILORED AND IS NOT OTHERWISE SERVED BY A
14 LESS RESTRICTIVE MEANS.

15 1-602. Parents' bill of rights; definition

16 A. ALL PARENTAL RIGHTS ARE RESERVED TO A PARENT OF A MINOR CHILD
17 WITHOUT OBSTRUCTION OR INTERFERENCE FROM THIS STATE, ANY POLITICAL
18 SUBDIVISION OF THIS STATE, ANY OTHER GOVERNMENTAL ENTITY OR ANY OTHER
19 INSTITUTION, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING RIGHTS:

20 1. THE RIGHT TO DIRECT THE EDUCATION OF THE MINOR CHILD.

21 2. ALL RIGHTS OF PARENTS IDENTIFIED IN TITLE 15, INCLUDING THE RIGHT
22 TO ACCESS AND REVIEW ALL RECORDS RELATING TO THE MINOR CHILD.

23 3. THE RIGHT TO DIRECT THE UPBRINGING OF THE MINOR CHILD.

24 4. THE RIGHT TO DIRECT THE MORAL OR RELIGIOUS TRAINING OF THE MINOR
25 CHILD.

26 5. THE RIGHT TO MAKE HEALTH CARE DECISIONS FOR THE MINOR CHILD,
27 INCLUDING RIGHTS PURSUANT TO SECTIONS 15-873, 36-2271, 36-2272 AND 36-2273,
28 UNLESS OTHERWISE PROHIBITED BY LAW.

29 6. THE RIGHT TO ACCESS AND REVIEW ALL MEDICAL RECORDS OF THE MINOR
30 CHILD UNLESS OTHERWISE PROHIBITED BY LAW OR THE PARENT IS THE SUBJECT OF AN
31 INVESTIGATION OF A CRIME COMMITTED AGAINST THE MINOR CHILD AND A LAW
32 ENFORCEMENT OFFICIAL REQUESTS THAT THE INFORMATION NOT BE RELEASED.

33 7. THE RIGHT TO CONSENT IN WRITING BEFORE A BIOMETRIC SCAN OF THE
34 MINOR CHILD IS MADE PURSUANT TO SECTION 15-109.

35 8. THE RIGHT TO CONSENT IN WRITING BEFORE ANY RECORD OF THE MINOR
36 CHILD'S BLOOD OR DEOXYRIBONUCLEIC ACID IS CREATED, STORED OR SHARED, EXCEPT
37 AS REQUIRED BY SECTION 36-694, OR BEFORE ANY GENETIC TESTING IS CONDUCTED ON
38 THE MINOR CHILD PURSUANT TO SECTION 12-2803 UNLESS AUTHORIZED PURSUANT TO
39 SECTION 13-610 OR A COURT ORDER.

40 9. THE RIGHT TO CONSENT IN WRITING BEFORE THE STATE OR ANY OF ITS
41 POLITICAL SUBDIVISIONS MAKES A VIDEO OR VOICE RECORDING OF THE MINOR CHILD,
42 UNLESS THE VIDEO OR VOICE RECORDING IS MADE DURING OR AS A PART OF A COURT
43 PROCEEDING, DURING OR AS PART OF A FORENSIC INTERVIEW IN A CRIMINAL OR CHILD

1 PROTECTIVE SERVICES INVESTIGATION OR TO BE USED SOLELY FOR ANY OF THE
2 FOLLOWING:

3 (a) SAFETY DEMONSTRATIONS, INCLUDING THE MAINTENANCE OF ORDER AND
4 DISCIPLINE IN THE COMMON AREAS OF A SCHOOL OR ON PUPIL TRANSPORTATION
5 VEHICLES.

6 (b) A PURPOSE RELATED TO A LEGITIMATE ACADEMIC OR EXTRACURRICULAR
7 ACTIVITY.

8 (c) A PURPOSE RELATED TO REGULAR CLASSROOM INSTRUCTION.

9 (d) SECURITY OR SURVEILLANCE OF BUILDINGS OR GROUNDS.

10 (e) A PHOTO IDENTIFICATION CARD.

11 10. THE RIGHT TO BE NOTIFIED PROMPTLY IF AN EMPLOYEE OF THIS STATE,
12 ANY POLITICAL SUBDIVISION OF THIS STATE, ANY OTHER GOVERNMENTAL ENTITY OR ANY
13 OTHER INSTITUTION SUSPECTS THAT A CRIMINAL OFFENSE HAS BEEN COMMITTED AGAINST
14 THE MINOR CHILD BY SOMEONE OTHER THAN A PARENT, UNLESS THE INCIDENT HAS FIRST
15 BEEN REPORTED TO LAW ENFORCEMENT AND NOTIFICATION OF THE PARENT WOULD IMPEDE
16 A LAW ENFORCEMENT OR CHILD PROTECTIVE SERVICES INVESTIGATION.

17 11. THE RIGHT TO OBTAIN INFORMATION ABOUT A CHILD PROTECTIVE SERVICES
18 INVESTIGATION INVOLVING THE PARENT PURSUANT TO SECTION 8-807.

19 B. THIS SECTION DOES NOT AUTHORIZE OR ALLOW A PARENT TO ENGAGE IN
20 CONDUCT THAT IS UNLAWFUL OR TO ABUSE OR NEGLECT A CHILD IN VIOLATION OF THE
21 LAWS OF THIS STATE. THIS SECTION DOES NOT PROHIBIT COURTS, LAW ENFORCEMENT
22 OFFICERS OR EMPLOYEES OF A GOVERNMENT AGENCY RESPONSIBLE FOR CHILD WELFARE
23 FROM ACTING IN THEIR OFFICIAL CAPACITY WITHIN THE SCOPE OF THEIR AUTHORITY.
24 THIS SECTION DOES NOT PROHIBIT A COURT FROM ISSUING AN ORDER THAT IS
25 OTHERWISE PERMITTED BY LAW.

26 C. ANY ATTEMPT TO ENCOURAGE OR COERCE A MINOR CHILD TO WITHHOLD
27 INFORMATION FROM THE CHILD'S PARENT SHALL BE GROUNDS FOR DISCIPLINE OF AN
28 EMPLOYEE OF THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER
29 GOVERNMENTAL ENTITY, EXCEPT FOR LAW ENFORCEMENT PERSONNEL.

30 D. UNLESS THOSE RIGHTS HAVE BEEN LEGALLY WAIVED OR LEGALLY TERMINATED,
31 PARENTS HAVE INALIENABLE RIGHTS THAT ARE MORE COMPREHENSIVE THAN THOSE LISTED
32 IN THIS SECTION. THIS CHAPTER DOES NOT PRESCRIBE ALL RIGHTS OF PARENTS.
33 UNLESS OTHERWISE REQUIRED BY LAW, THE RIGHTS OF PARENTS OF MINOR CHILDREN
34 SHALL NOT BE LIMITED OR DENIED.

35 E. FOR THE PURPOSES OF THIS SECTION, "PARENT" MEANS THE NATURAL OR
36 ADOPTIVE PARENT OR LEGAL GUARDIAN OF A MINOR CHILD.

37 Sec. 2. Section 15-102, Arizona Revised Statutes, is amended to read:

38 15-102. Parental involvement in the school; definition

39 A. The governing board, in consultation with parents, teachers and
40 administrators, shall develop and adopt a policy to promote the involvement
41 of parents and guardians of children enrolled in the schools within the
42 school district, including:

1 1. A plan for parent participation in the schools which is designed to
2 improve parent and teacher cooperation in such areas as homework, attendance
3 and discipline.

4 2. Procedures by which parents may learn about the course of study for
5 their children and review learning materials, INCLUDING THE SOURCE OF ANY
6 SUPPLEMENTAL EDUCATIONAL MATERIALS.

7 3. Procedures by which parents who object to any learning material or
8 activity on the basis that it is harmful may withdraw their children from the
9 activity or from the class or program in which the material is used.
10 Objection to a learning material or activity on the basis that it is harmful
11 includes objection to a material or activity because it questions beliefs or
12 practices in sex, morality or religion.

13 4. IF A SCHOOL DISTRICT OFFERS ANY SEX EDUCATION CURRICULA PURSUANT TO
14 SECTION 15-711 OR 15-716 OR PURSUANT TO ANY RULES ADOPTED BY THE STATE BOARD
15 OF EDUCATION, PROCEDURES TO PROHIBIT A SCHOOL DISTRICT FROM PROVIDING SEX
16 EDUCATION INSTRUCTION TO A PUPIL UNLESS THE PUPIL'S PARENT PROVIDES WRITTEN
17 PERMISSION FOR THE CHILD TO PARTICIPATE IN THE SEX EDUCATION CURRICULA.

18 5. PROCEDURES BY WHICH PARENTS WILL BE NOTIFIED IN ADVANCE OF AND
19 GIVEN THE OPPORTUNITY TO WITHDRAW THEIR CHILDREN FROM ANY INSTRUCTION OR
20 PRESENTATIONS REGARDING SEXUALITY IN COURSES OTHER THAN FORMAL SEX EDUCATION
21 CURRICULA.

22 6. PROCEDURES BY WHICH PARENTS MAY LEARN ABOUT THE NATURE AND PURPOSE
23 OF CLUBS AND ACTIVITIES THAT ARE PART OF THE SCHOOL CURRICULUM,
24 EXTRACURRICULAR CLUBS AND ACTIVITIES THAT HAVE BEEN APPROVED BY THE SCHOOL.

25 7. PROCEDURES BY WHICH PARENTS MAY LEARN ABOUT PARENTAL RIGHTS AND
26 RESPONSIBILITIES UNDER THE LAWS OF THIS STATE, INCLUDING A SUMMARY AND A
27 BRIEF DESCRIPTION OF EACH OF THE FOLLOWING:

28 (a) THE RIGHT TO OPT IN TO A SEX EDUCATION CURRICULUM IF ONE IS
29 PROVIDED BY THE SCHOOL DISTRICT.

30 (b) OPEN ENROLLMENT RIGHTS PURSUANT TO SECTION 15-816.01.

31 (c) THE RIGHT TO OPT OUT OF ASSIGNMENTS PURSUANT TO THIS SECTION.

32 (d) THE RIGHT TO OPT OUT OF IMMUNIZATIONS PURSUANT TO SECTION 15-873.

33 (e) THE PROMOTION REQUIREMENTS PRESCRIBED IN SECTION 15-701.

34 (f) THE MINIMUM COURSE OF STUDY AND COMPETENCY REQUIREMENTS FOR
35 GRADUATION FROM HIGH SCHOOL PRESCRIBED IN SECTION 15-701.01.

36 (g) THE RIGHT TO OPT OUT OF INSTRUCTION ON THE ACQUIRED IMMUNE
37 DEFICIENCY SYNDROME PURSUANT TO SECTION 15-716.

38 (h) THE RIGHT TO REVIEW TEST RESULTS PURSUANT TO SECTION 15-743.

39 (i) THE RIGHT TO PARTICIPATE IN GIFTED PROGRAMS PURSUANT TO SECTION
40 15-779.01

41 (j) THE RIGHT TO ACCESS INSTRUCTIONAL MATERIALS PURSUANT TO SECTION
42 15-730.

43 (k) THE RIGHT TO RECEIVE A SCHOOL REPORT CARD PURSUANT TO SECTION
44 15-746.

1 (l) THE ATTENDANCE REQUIREMENTS PRESCRIBED IN SECTIONS 15-802, 15-803
2 AND 15-821.

3 (m) THE RIGHT TO PUBLIC REVIEW OF COURSES OF STUDY AND TEXTBOOKS
4 PURSUANT TO SECTION 15-721.

5 (n) THE RIGHT TO BE EXCUSED FROM SCHOOL ATTENDANCE FOR RELIGIOUS
6 PURPOSES PURSUANT TO SECTION 15-806.

7 (o) POLICIES RELATED TO PARENTAL INVOLVEMENT PURSUANT TO THIS SECTION.

8 (p) THE RIGHT TO PARTICIPATE ON SCHOOL COUNCILS PURSUANT TO SECTION
9 15-351.

10 (q) THE RIGHT TO PARTICIPATE IN A PARENTAL SATISFACTION SURVEY
11 PURSUANT TO SECTION 15-353.

12 (r) INFORMATION ABOUT THE STUDENT ACCOUNTABILITY INFORMATION SYSTEM AS
13 PRESCRIBED IN SECTION 15-1042.

14 (s) THE RIGHT TO ACCESS THE FAILING SCHOOLS TUTORING FUND PURSUANT TO
15 SECTION 15-241.

16 B. The policy adopted by the governing board pursuant to this section
17 may also include the following components:

18 1. A plan by which parents will be made aware of the district's
19 parental involvement policy and this section, including:

20 (a) Rights under the family educational rights and privacy act of 1974
21 (20 United States Code section 1232g) relating to access to children's
22 official records.

23 (b) The parent's right to inspect the school district policies and
24 curriculum.

25 2. Efforts to encourage the development of parenting skills.

26 3. The communication to parents of techniques designed to assist the
27 child's learning experience in the home.

28 4. Efforts to encourage access to community and support services for
29 children and families.

30 5. The promotion of communication between the school and parents
31 concerning school programs and the academic progress of the parents'
32 children.

33 6. Identifying opportunities for parents to participate in and support
34 classroom instruction at the school.

35 7. Efforts to **SUPPORT**, with appropriate training, ~~support~~ parents as
36 shared decision makers and to encourage membership on school councils.

37 8. The recognition of the diversity of parents and the development of
38 guidelines that promote widespread parental participation and involvement in
39 the school at various levels.

40 9. The development of preparation programs and specialized courses for
41 certificated employees and administrators that promote parental involvement.

42 10. The development of strategies and programmatic structures at
43 schools to encourage and enable parents to participate actively in their
44 children's education.

1 C. THE GOVERNING BOARD MAY ADOPT A POLICY TO PROVIDE TO PARENTS THE
2 INFORMATION REQUIRED BY THIS SECTION IN AN ELECTRONIC FORM.

3 ~~E.~~ D. A parent shall submit a written request for information
4 pursuant to this section during regular business hours to either the school
5 principal at the school site or the superintendent of the school district at
6 the office of the school district. Within ten days of receiving the request
7 for information, the school principal or the superintendent of the school
8 district shall either deliver the requested information to the parent or
9 submit to the parent a written explanation of the reasons for the denial of
10 the requested information. If the request for information is denied or the
11 parent does not receive the requested information within fifteen days after
12 submitting the request for information, the parent may submit a written
13 request for the information to the school district governing board, which
14 shall formally consider the request at the next scheduled public meeting of
15 the governing board ~~that~~ IF the request can be properly noticed on the
16 agenda. IF THE REQUEST CANNOT BE PROPERLY NOTICED ON THE AGENDA, THE
17 GOVERNING BOARD SHALL FORMALLY CONSIDER THE REQUEST AT THE NEXT SUBSEQUENT
18 PUBLIC MEETING OF THE GOVERNING BOARD.

19 ~~D.~~ E. For the purposes of this section, "parent" means the NATURAL OR
20 ADOPTIVE parent or ~~person who has custody of the child~~ LEGAL GUARDIAN OF A
21 MINOR CHILD.

22 Sec. 3. Title 36, chapter 22, article 1, Arizona Revised Statutes, is
23 amended by adding sections 36-2272 and 36-2273, to read:

24 36-2272. Prescription orders: minors: parental consent:
25 definitions

26 A. EXCEPT AS PERMITTED BY SECTION 13-1413 OR 41-2805 OR FEDERAL LAW, A
27 HEALTH PROFESSIONAL WHO IS AUTHORIZED BY LAW TO WRITE MEDICAL PRESCRIPTIONS
28 SHALL NOT WRITE A PRESCRIPTION ORDER FOR A PERSON WHO IS UNDER EIGHTEEN YEARS
29 OF AGE UNLESS ANY OF THE FOLLOWING APPLIES:

30 1. THE HEALTH PROFESSIONAL HAS SECURED THE WRITTEN CONSENT OF AT LEAST
31 ONE OF THE MINOR'S PARENTS OR FOSTER PARENTS OR A LEGAL CUSTODIAN, UNLESS A
32 PARENT DOES NOT HAVE THE RIGHT TO CONSENT DUE TO A COURT ORDER.

33 2. THE HEALTH PROFESSIONAL HAS SECURED VERBAL CONSENT IN PERSON OR
34 THROUGH TELEMEDICINE FROM AT LEAST ONE OF THE MINOR'S PARENTS OR FOSTER
35 PARENTS OR A LEGAL CUSTODIAN, UNLESS A PARENT DOES NOT HAVE THE RIGHT TO
36 CONSENT DUE TO A COURT ORDER. IF THE PARENTAL CONSENT IS GIVEN THROUGH
37 TELEMEDICINE, THE HEALTH PROFESSIONAL MUST VERIFY THE PARENT'S IDENTITY AT
38 THE SITE WHERE THE CONSENT IS GIVEN.

39 3. THE MINOR IS EMANCIPATED PURSUANT TO TITLE 12, CHAPTER 15, ARTICLE
40 1 OR IS OTHERWISE AUTHORIZED TO CONSENT BY SECTION 44-132.

41 4. THE HEALTH PROFESSIONAL IS ACTING PURSUANT TO A COURT ORDER.

42 B. THIS SECTION DOES NOT APPLY WHEN THE HEALTH PROFESSIONAL HAS
43 DETERMINED THAT A MEDICAL EMERGENCY EXISTS AND THAT IT IS NECESSARY TO ISSUE

1 THE PRESCRIPTION ORDER OR ADMINISTER A DRUG FOR THE TREATMENT OF A SERIOUS
2 DISEASE OR INJURY OR DRUG ABUSE, OR TO SAVE THE LIFE OF THE PATIENT.

3 C. A HEALTH PROFESSIONAL WHO VIOLATES THIS SECTION COMMITS AN ACT OF
4 UNPROFESSIONAL CONDUCT.

5 D. FOR THE PURPOSES OF THIS SECTION:

6 1. "HEALTH PROFESSIONAL" HAS THE SAME MEANING PRESCRIBED IN SECTION
7 32-3201.

8 2. "PARENT" MEANS THE NATURAL OR ADOPTIVE PARENT OR LEGAL GUARDIAN OF
9 A MINOR CHILD.

10 36-2273. Consent of parent required for mental health screening
11 or treatment of minors; exception; violation;
12 classification; definition

13 A. EXCEPT AS OTHERWISE PROVIDED BY LAW OR A COURT ORDER, NO PERSON,
14 CORPORATION, ASSOCIATION, ORGANIZATION OR STATE-SUPPORTED INSTITUTION, OR ANY
15 INDIVIDUAL EMPLOYED BY ANY OF THESE ENTITIES, MAY PROCURE, SOLICIT TO
16 PERFORM, ARRANGE FOR THE PERFORMANCE OF OR PERFORM MENTAL HEALTH SCREENING OR
17 MENTAL HEALTH TREATMENT ON A MINOR WITHOUT FIRST OBTAINING THE WRITTEN
18 CONSENT OF A PARENT OR A LEGAL CUSTODIAN OF THE MINOR CHILD. IF THE PARENTAL
19 CONSENT IS GIVEN THROUGH TELEMEDICINE, THE HEALTH PROFESSIONAL MUST VERIFY
20 THE PARENT'S IDENTITY AT THE SITE WHERE THE CONSENT IS GIVEN.

21 B. THIS SECTION DOES NOT APPLY WHEN AN EMERGENCY EXISTS THAT REQUIRES
22 A PERSON TO PROVIDE MENTAL HEALTH TREATMENT TO PREVENT SERIOUS INJURY TO OR
23 SAVE THE LIFE OF A MINOR CHILD.

24 C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1
25 MISDEMEANOR.

26 D. FOR THE PURPOSES OF THIS SECTION, "PARENT" MEANS THE PARENT OR
27 LEGAL GUARDIAN OF A MINOR CHILD.

28 Sec. 4. Repeal

29 Section 44-132.01, Arizona Revised Statutes, is repealed.

30 Sec. 5. Construction

31 This act does not prescribe all rights of parents and does not limit a
32 parent's or legal guardian's rights in any manner.

33 Sec. 6. Short title

34 This act may be cited as the "Parents' Bill of Rights Act".