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 SECTION 36-2272; RELATING TO PARENTS' RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

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

CHAPTER 6
PARENTS' RIGHTS

ARTICLE 1. PARENTS' BILL OF RIGHTS

1-601. Parents' rights protected
A. THE LIBERTY OF PARENTS TO DIRECT THE UPBRINGING, EDUCATION, HEALTH CARE AND MENTAL HEALTH OF THEIR CHILDREN IS A FUNDAMENTAL RIGHT.
B. THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER GOVERNMENTAL ENTITY SHALL NOT INFRINGE ON THESE RIGHTS WITHOUT DEMONSTRATING THAT THE COMPPELLING GOVERNMENTAL INTEREST AS APPLIED TO THE CHILD INVOLVED IS OF THE HIGHEST ORDER, IS NARROWLY TAILORED AND IS NOT OTHERWISE SERVED BY A LESS RESTRICTIVE MEANS.

1-602. Parents' bill of rights; definition
A. ALL PARENTAL RIGHTS ARE RESERVED TO A PARENT OF A MINOR CHILD WITHOUT OBSTRUCTION OR INTERFERENCE FROM THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE, ANY OTHER GOVERNMENTAL ENTITY OR ANY OTHER INSTITUTION, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING RIGHTS:
1. THE RIGHT TO DIRECT THE EDUCATION OF THE MINOR CHILD.
2. ALL RIGHTS OF PARENTS IDENTIFIED IN TITLE 15, INCLUDING THE RIGHT TO ACCESS AND REVIEW ALL RECORDS RELATING TO THE MINOR CHILD.
3. THE RIGHT TO DIRECT THE UPBRINGING OF THE MINOR CHILD.
4. THE RIGHT TO DIRECT THE MORAL OR RELIGIOUS TRAINING OF THE MINOR CHILD.
5. THE RIGHT TO MAKE HEALTH CARE DECISIONS FOR THE MINOR CHILD, INCLUDING RIGHTS PURSUANT TO SECTIONS 15-873, 36-2271 AND 36-2272, UNLESS OTHERWISE PROHIBITED BY LAW.
6. THE RIGHT TO ACCESS AND REVIEW ALL MEDICAL RECORDS OF THE MINOR CHILD UNLESS OTHERWISE PROHIBITED BY LAW OR 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.
7. THE RIGHT TO CONSENT IN WRITING BEFORE A BIOMETRIC SCAN OF THE MINOR CHILD IS MADE PURSUANT TO SECTION 15-109.
8. THE RIGHT TO CONSENT IN WRITING BEFORE ANY RECORD OF THE MINOR CHILD'S BLOOD OR DEOXYRIBONUCLEIC ACID IS CREATED, STORED OR SHARED, EXCEPT AS REQUIRED BY SECTION 36-694, OR BEFORE ANY GENETIC TESTING IS CONDUCTED ON THE MINOR CHILD PURSUANT TO SECTION 12-2803 UNLESS AUTHORIZED PURSUANT TO SECTION 13-610 OR A COURT ORDER.
9. THE RIGHT TO CONSENT IN WRITING BEFORE THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS MAKES A VIDEO OR VOICE RECORDING OF THE MINOR CHILD, UNLESS THE VIDEO OR VOICE RECORDING IS MADE DURING OR AS A PART OF A COURT PROCEEDING, DURING OR AS PART OF A FORENSIC INTERVIEW IN A CRIMINAL OR CHILD PROTECTIVE SERVICES INVESTIGATION OR TO BE USED SOLELY FOR ANY OF THE FOLLOWING:
(a) SAFETY DEMONSTRATIONS, INCLUDING THE MAINTENANCE OF ORDER AND
DISCIPLINE IN THE COMMON AREAS OF A SCHOOL OR ON PUPIL TRANSPORTATION
VEHICLES.
(b) A PURPOSE RELATED TO A LEGITIMATE ACADEMIC OR EXTRACURRICULAR
ACTIVITY.
(c) A PURPOSE RELATED TO REGULAR CLASSROOM INSTRUCTION.
(d) SECURITY OR SURVEILLANCE OF BUILDINGS OR GROUNDS.
(e) A PHOTO IDENTIFICATION CARD.

10. THE RIGHT TO BE NOTIFIED PROMPTLY IF AN EMPLOYEE OF THIS STATE, ANY
POLITICAL SUBDIVISION OF THIS STATE, ANY OTHER GOVERNMENTAL ENTITY OR ANY
OTHER INSTITUTION SUSPECTS THAT A CRIMINAL OFFENSE HAS BEEN COMMITTED AGAINST
THE MINOR CHILD BY SOMEONE OTHER THAN A PARENT, UNLESS THE INCIDENT HAS FIRST
BEEN REPORTED TO LAW ENFORCEMENT AND NOTIFICATION OF THE PARENT WOULD IMPEDE
A LAW ENFORCEMENT OR CHILD PROTECTIVE SERVICES INVESTIGATION. THIS PARAGRAPH
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 ARE ROUTINELY ADDRESSED AS STUDENT DISCIPLINARY MATTERS
BY THE SCHOOL.

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

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

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

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

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

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

15-102. Parental involvement in the school; definition

A. The governing board, in consultation with parents, teachers and
administrators, shall develop and adopt a policy to promote the involvement
of parents and guardians of children enrolled in the schools within the
school district, including:
1. A plan for parent participation in the schools which is designed to improve parent and teacher cooperation in such areas as homework, attendance and discipline.

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

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

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

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

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

7. PROCEDURES BY WHICH PARENTS MAY LEARN ABOUT PARENTAL RIGHTS AND RESPONSIBILITIES UNDER THE LAWS OF THIS STATE, INCLUDING THE FOLLOWING:
   (a) THE RIGHT TO OPT IN TO A SEX EDUCATION CURRICULUM IF ONE IS PROVIDED BY THE SCHOOL DISTRICT.
   (b) OPEN ENROLLMENT RIGHTS PURSUANT TO SECTION 15-816.01.
   (c) THE RIGHT TO OPT OUT OF ASSIGNMENTS PURSUANT TO THIS SECTION.
   (d) THE RIGHT TO OPT OUT OF IMMUNIZATIONS PURSUANT TO SECTION 15-873.
   (e) THE PROMOTION REQUIREMENTS PRESCRIBED IN SECTION 15-701.
   (f) THE MINIMUM COURSE OF STUDY AND COMPETENCY REQUIREMENTS FOR GRADUATION FROM HIGH SCHOOL PRESCRIBED IN SECTION 15-701.01.
   (g) THE RIGHT TO OPT OUT OF INSTRUCTION ON THE ACQUIRED IMMUNE DEFICIENCY SYNDROME PURSUANT TO SECTION 15-716.
   (h) THE RIGHT TO REVIEW TEST RESULTS PURSUANT TO SECTION 15-743.
   (i) THE RIGHT TO PARTICIPATE IN GIFTED PROGRAMS PURSUANT TO SECTION 15-779.01
   (j) THE RIGHT TO ACCESS INSTRUCTIONAL MATERIALS PURSUANT TO SECTION 15-730.
   (k) THE RIGHT TO RECEIVE A SCHOOL REPORT CARD PURSUANT TO SECTION 15-746.
(m) THE RIGHT TO PUBLIC REVIEW OF COURSES OF STUDY AND TEXTBOOKS PURSUANT TO SECTION 15-721.

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

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

(p) THE RIGHT TO SEEK MEMBERSHIP ON SCHOOL COUNCILS PURSUANT TO SECTION 15-351.

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

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

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

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

1. A plan by which parents will be made aware of the district's parental involvement policy and this section, including:
   (a) Rights under the family educational rights and privacy act of 1974 (20 United States Code section 1232g) relating to access to children's official records.
   (b) The parent's right to inspect the school district policies and curriculum.

2. Efforts to encourage the development of parenting skills.

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

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

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

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

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

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

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

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

C. THE GOVERNING BOARD MAY ADOPT A POLICY TO PROVIDE TO PARENTS THE INFORMATION REQUIRED BY THIS SECTION IN AN ELECTRONIC FORM.
A. parent shall submit a written request for information pursuant to 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. Within ten 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. If the request for information is denied or the parent does not receive the requested information within fifteen days after submitting the request for information, the parent may submit a written request for the information to the school district governing board, which shall formally consider the request at the next scheduled public meeting of the governing board that IF the request can be properly noticed on the agenda. IF THE REQUEST CANNOT BE PROPERLY NOTICED ON THE AGENDA, THE GOVERNING BOARD SHALL FORMALLY CONSIDER THE REQUEST AT THE NEXT SUBSEQUENT PUBLIC MEETING OF THE GOVERNING BOARD.

B. For the purposes of this section, "parent" means the NATURAL OR ADOPTIVE parent or person who has custody of the child LEGAL GUARDIAN OF A MINOR CHILD.

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

36-2272. Consent of parent required for mental health screening or treatment of minors; exception; violation; classification; definition

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

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

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

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

Sec. 4. Construction

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

Sec. 5. Short title

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