

HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **HB 2161**

Kaiser Floor Amendment

1. Prohibits a charter school or school district employee (employee) who is acting under color of law from interfering with the fundamental right of parents to direct the upbringing, education, health care and mental health of their children.
2. Establishes a process for a parent to bring a complaint against an employee based on any violation of statutory parental rights and outlines the actions that must be taken by specified individuals and entities.
3. Mandates each governing board and governing body develop a procedure for reporting violations of statutory parental rights and resolutions to submitted complaints.
4. Subjects an employee who violates statutory parental rights to the following discipline:
 - a) For the first violation in any fiscal year: a written warning;
 - b) For the second violation in the same fiscal year: a maximum of two days suspension without pay and a civil penalty of \$500; and
 - c) For the third or subsequent offense in the same fiscal year: the employee is guilty of unprofessional conduct, a civil penalty of \$1,000 and the employee may be subject to suspension or dismissal.
5. Directs the State Board of Education (SBE) to impose the civil penalties and deposit monies collected in the Parental Rights Fund (Fund).
6. Stipulates a parent may pursue legal action if actions taken by specified entities do not resolve the complaint to the parent's satisfaction.
7. States, if a complaint is not resolved after going through the complaint and discipline processes, specified individuals may initiate a suit in superior court to bring action to compel the governing board or governing body to bring the school into compliance.
8. Allows an attorney acting on behalf of a school district or charter school to request a legal opinion of the Attorney General or county attorney as to whether actions taken by the school district or charter school comply with statutory parental rights requirements.

Amendment explanation prepared by Chase Houser

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9. Establishes the Fund that is administered by SBE and directs SBE to use Fund monies to conduct investigations pursuant to state law.
10. Requires the Arizona Department of Education (ADE) to:
 - a) Develop a statewide training curriculum for public school personnel on state laws regarding statutory parental rights in public education;
 - b) Provide resources and materials that public schools may use to provide information on statutory parental rights to parents and students; and
 - c) Make the training, curriculum, resources and materials available to public schools
11. Specifies each public school must require its personnel to complete the training developed by ADE.

KAISER FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2161
(Reference to printed bill)

1 Page 6, between lines 26 and 27, insert:

2 "Sec. 3. Title 15, chapter 1, article 1, Arizona Revised Statutes,
3 is amended by adding section 15-102.01, to read:

4 15-102.01. Parental rights; violations; complaints;
5 enforcement; civil penalty; legal opinion;
6 parental rights fund

7 A. AN EMPLOYEE OF A CHARTER SCHOOL, A SCHOOL DISTRICT OR A SCHOOL
8 THAT IS OPERATED BY A SCHOOL DISTRICT WHO IS ACTING UNDER COLOR OF LAW MAY
9 NOT INTERFERE WITH OR USURP THE FUNDAMENTAL RIGHT OF PARENTS TO DIRECT THE
10 UPBRINGING, EDUCATION, HEALTH CARE AND MENTAL HEALTH OF THEIR CHILDREN. A
11 PARENT MAY BRING A COMPLAINT AGAINST AN EMPLOYEE OF A CHARTER SCHOOL OR A
12 SCHOOL THAT IS OPERATED BY A SCHOOL DISTRICT BASED ON ANY VIOLATION OF THE
13 STATUTORY RIGHTS SET FORTH IN SECTION 1-602 OR THIS TITLE, OR ANY OTHER
14 ACTION THAT INTERFERES WITH OR USURPS THE FUNDAMENTAL RIGHT OF PARENTS TO
15 DIRECT THE UPBRINGING, EDUCATION, HEALTH CARE AND MENTAL HEALTH OF THEIR
16 CHILDREN, AS FOLLOWS:

17 1. THE PARENT SHALL SUBMIT A COMPLAINT IN WRITING WITH THE SPECIFIC
18 FACTS OF THE ALLEGED VIOLATION TO THE PRINCIPAL OF THE SCHOOL IN WHICH THE
19 PARENT'S CHILD IS ENROLLED. THE PRINCIPAL SHALL INVESTIGATE THE COMPLAINT
20 AND RESPOND IN WRITING WITH A DESCRIPTION OF ANY ACTION TAKEN TO RESOLVE
21 THE COMPLAINT, WITHIN FIFTEEN SCHOOL DAYS AFTER RECEIVING THE WRITTEN
22 COMPLAINT.

23 2. IF THE ACTION TAKEN BY THE PRINCIPAL OF THE SCHOOL DOES NOT
24 RESOLVE THE COMPLAINT TO THE PARENT'S SATISFACTION, THE PARENT SHALL SUBMIT

1 A COMPLAINT IN WRITING WITH THE SPECIFIC FACTS OF THE ALLEGED VIOLATION TO
2 THE SCHOOL DISTRICT GOVERNING BOARD OR CHARTER SCHOOL GOVERNING BODY, AS
3 APPLICABLE, OR TO AN ADMINISTRATOR DESIGNATED BY THE GOVERNING BOARD OR
4 GOVERNING BODY. THE SCHOOL DISTRICT GOVERNING BOARD, CHARTER SCHOOL
5 GOVERNING BODY OR DESIGNATED ADMINISTRATOR SHALL INVESTIGATE THE COMPLAINT
6 AND RESPOND IN WRITING WITH A DESCRIPTION OF ANY ACTION TAKEN TO RESOLVE
7 THE COMPLAINT AND A DETERMINATION OF THE TRUTH OF THE ALLEGED VIOLATION,
8 WITHIN TWENTY-FIVE SCHOOL DAYS AFTER RECEIVING THE WRITTEN COMPLAINT. EACH
9 SCHOOL DISTRICT GOVERNING BOARD AND CHARTER SCHOOL GOVERNING BODY SHALL
10 DEVELOP A POLICY AND PROCEDURE FOR REPORTING VIOLATIONS OF PARENTAL RIGHTS
11 AS PRESCRIBED IN THIS SUBSECTION AND RESOLUTIONS TO COMPLAINTS SUBMITTED
12 UNDER THIS SECTION TO THE GOVERNING BOARD OR GOVERNING BODY.

13 B. NOTWITHSTANDING ANY OTHER LAW, A SCHOOL EMPLOYEE WHO IS FOUND BY
14 THE SCHOOL DISTRICT GOVERNING BOARD, CHARTER SCHOOL GOVERNING BODY OR
15 DESIGNATED ADMINISTRATOR TO HAVE VIOLATED PARENTAL RIGHTS PURSUANT TO
16 SUBSECTION A OF THIS SECTION IS SUBJECT TO THE FOLLOWING DISCIPLINE:

17 1. FOR THE FIRST VIOLATION IN ANY FISCAL YEAR, THE EMPLOYEE SHALL
18 RECEIVE A WRITTEN WARNING.

19 2. FOR THE SECOND VIOLATION IN THE SAME FISCAL YEAR:

20 (a) THE EMPLOYEE IS SUBJECT TO SUSPENSION WITHOUT PAY NOT TO EXCEED
21 TWO DAYS.

22 (b) THE STATE BOARD OF EDUCATION SHALL IMPOSE A CIVIL PENALTY OF
23 \$500 AGAINST THE EMPLOYEE. THE STATE BOARD SHALL DEPOSIT, PURSUANT TO
24 SECTIONS 35-146 AND 35-147, PENALTIES COLLECTED PURSUANT TO THIS
25 SUBDIVISION IN THE PARENTAL RIGHTS FUND ESTABLISHED BY THIS SECTION.

26 3. FOR THE THIRD OR SUBSEQUENT OFFENSE IN THE SAME FISCAL YEAR:

27 (a) THE EMPLOYEE IS GUILTY OF UNPROFESSIONAL CONDUCT.

28 (b) THE EMPLOYEE MAY BE SUBJECT TO SUSPENSION OR DISMISSAL.

29 (c) THE STATE BOARD OF EDUCATION SHALL IMPOSE A CIVIL PENALTY OF
30 \$1,000 AGAINST THE EMPLOYEE FOR EACH VIOLATION. THE STATE BOARD SHALL
31 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, PENALTIES COLLECTED

1 PURSUANT TO THIS SUBDIVISION IN THE PARENTAL RIGHTS FUND ESTABLISHED BY
2 THIS SECTION.

3 C. IF THE ACTIONS TAKEN BY THE SCHOOL DISTRICT GOVERNING BOARD,
4 CHARTER SCHOOL GOVERNING BODY OR DESIGNATED ADMINISTRATOR UNDER SUBSECTIONS
5 A AND B OF THIS SECTION DO NOT RESOLVE THE COMPLAINT TO THE PARENT'S
6 SATISFACTION, THE PARENT MAY PURSUE LEGAL ACTION TO ENFORCE THIS SECTION AS
7 PRESCRIBED IN SUBSECTION D OF THIS SECTION.

8 D. IF A COMPLAINT IS NOT RESOLVED AFTER PURSUING RESOLUTION PURSUANT
9 TO SUBSECTIONS A AND B OF THIS SECTION, THE SUPERINTENDENT OF PUBLIC
10 INSTRUCTION, AUDITOR GENERAL, ATTORNEY GENERAL OR COUNTY ATTORNEY FOR THE
11 COUNTY IN WHICH AN ALLEGED VIOLATION OF THIS SECTION OCCURS, OR A PARENT OF
12 A STUDENT ENROLLED IN THE SCHOOL DISTRICT OR CHARTER SCHOOL IN WHICH AN
13 ALLEGED VIOLATION OF THIS SECTION OCCURS WHO HAS FIRST PURSUED A RESOLUTION
14 PURSUANT TO SUBSECTIONS A AND B OF THIS SECTION, MAY INITIATE A SUIT IN
15 SUPERIOR COURT TO BRING ACTION FOR INJUNCTIVE RELIEF OR A WRIT OF MANDAMUS
16 TO COMPEL THE SCHOOL DISTRICT GOVERNING BOARD OR CHARTER SCHOOL GOVERNING
17 BODY TO BRING THE SCHOOL INTO COMPLIANCE WITH THIS SECTION. IF THE PARENT
18 PREVAILS, THE COURT SHALL AWARD REASONABLE ATTORNEY FEES TO THE PARENT. IN
19 THE EVENT OF NONCOMPLIANCE WITH THE ORDER OF THE COURT, THE COURT MAY
20 PUNISH THE RESPONSIBLE OFFICIAL OR EMPLOYEE FOR CONTEMPT.

21 E. AN ATTORNEY ACTING ON BEHALF OF A SCHOOL DISTRICT OR CHARTER
22 SCHOOL MAY REQUEST A LEGAL OPINION OF THE ATTORNEY GENERAL OR THE COUNTY
23 ATTORNEY FOR THE COUNTY IN WHICH AN ALLEGED VIOLATION OF THIS SECTION
24 OCCURS AS TO WHETHER THE ACTIONS TAKEN BY THE SCHOOL DISTRICT OR CHARTER
25 SCHOOL COMPLY WITH THIS SECTION.

26 F. THE PARENTAL RIGHTS FUND IS ESTABLISHED CONSISTING OF MONIES
27 DEPOSITED PURSUANT TO SUBSECTION B OF THIS SECTION. THE STATE BOARD OF
28 EDUCATION SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY
29 APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING
30 TO LAPSING OF APPROPRIATIONS. THE STATE BOARD OF EDUCATION SHALL USE
31 MONIES IN THE FUND FOR THE PURPOSES OF CONDUCTING INVESTIGATIONS PURSUANT
32 TO THE LAWS OF THIS STATE.

1 G. THIS SECTION DOES NOT PREEMPT OR FORECLOSE CLAIMS OR REMEDIES IN
2 SUPPORT OF PARENTAL RIGHTS THAT ARE AVAILABLE UNDER THE CONSTITUTION,
3 COMMON LAW OR STATUTES OF THIS STATE, INCLUDING BRINGING A SUIT PURSUANT TO
4 SECTION 1-602."

5 Renumber to conform

6 Page 11, after line 7, insert:

7 "Sec. 6. Title 15, chapter 2, article 2, Arizona Revised Statutes,
8 is amended by adding section 15-245.01, to read:

9 15-245.01. Parental rights training; materials

10 A. THE DEPARTMENT OF EDUCATION SHALL DEVELOP A STATEWIDE TRAINING
11 CURRICULUM FOR PUBLIC SCHOOL PERSONNEL ON THE LAWS OF THIS STATE REGARDING
12 PARENTAL RIGHTS IN PUBLIC EDUCATION, INCLUDING SECTIONS 1-602, 15-102,
13 15-113, 15-249.16 AND 15-1042. EACH PUBLIC SCHOOL SHALL REQUIRE ITS
14 PERSONNEL TO COMPLETE THE TRAINING DEVELOPED PURSUANT TO THIS SECTION
15 ANNUALLY.

16 B. THE DEPARTMENT OF EDUCATION SHALL DEVELOP AND PROVIDE RESOURCES
17 AND MATERIALS THAT PUBLIC SCHOOLS MAY USE FOR THE PURPOSES OF PROVIDING
18 INFORMATION ON THE PARENTAL RIGHTS LAWS OF THIS STATE TO PARENTS AND
19 STUDENTS.

20 C. THE DEPARTMENT OF EDUCATION SHALL MAKE THE TRAINING CURRICULUM,
21 RESOURCES AND MATERIALS DEVELOPED PURSUANT TO THIS SECTION AVAILABLE TO
22 PUBLIC SCHOOLS."

23 Amend title to conform

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