



# ARIZONA HOUSE OF REPRESENTATIVES

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Final Pass: 31-26-3-0

## **HB 2161: parental rights; schools; educational records**

**Sponsor: Representative Kaiser, LD 15**

**Transmitted to the Governor**

### **Overview**

Prohibits a governmental entity or official from interfering with or usurping a parent's right to direct the upbringing, education, health care and mental health of their children. Modifies parental consent requirements for school surveys. Expands parental rights regarding access to written and electronic records of a parent's child.

### **History**

Statute declares that all parental rights are reserved to a parent of a minor child without obstruction or interference from the state, a state political subdivision and any other governmental entity or institution. Statute outlines numerous parental rights (this is often referred to as the parents' bill of rights) and declares that unless otherwise required by law, the rights of parents of minor children may not be limited or denied ([A.R.S. § 1-602](#)).

A school district governing board, in consultation with parents, teachers and administrators, is required to adopt policies to promote the involvement of parents of children enrolled in the school district. These policies must include procedures by which parents may learn about parental rights and responsibilities, including, but not limited to: the right to opt in to a sex education curriculum, the right to opt out of immunizations and the right to review test results ([A.R.S. § 15-102](#)).

School districts and charter schools must obtain written informed consent from a pupil's parent before administering any survey that is retained by the school or the Arizona Department of Education for longer than one year and that solicits specified personal information. Currently, this a written informed consent must be obtained at the beginning of every school year for the pupil to participate in any survey that falls under the aforementioned criteria ([A.R.S. § 15-117](#)).

### **Provisions**

#### ***Parental Rights***

1. Prohibits the state, a state political subdivision or any other governmental entity, or any official of the state, a state political subdivision or other governmental entity acting under color of law, from interfering with or usurping a parent's fundamental right to direct the upbringing, education, health care and mental health of their children. (Sec. 1)
2. Authorizes a parent to bring suit against a governmental entity or official in superior court, federal court or before an administrative tribunal of appropriate jurisdiction based on any:
  - a) Violation of statutory parental rights; or
  - b) Other action that interferes with or usurps the fundamental right of parents to direct the upbringing, education, health care and mental health of their children. (Sec. 1)
3. Allows a parent to raise a violation of statutory parental rights as a claim or defense. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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4. Details the burden of proof a governmental entity or official must demonstrate to interfere with or usurp a parent's fundamental right to direct the upbringing, education, health care and mental health of their children. (Sec. 1)
5. Permits a governmental entity or official to interfere with or usurp the fundamental right of parents to direct the upbringing, education, health care and mental health of their children only if the governmental entity or official successfully demonstrates the burden of proof. (Sec. 1)
6. Directs the court to grant appropriate relief if a governmental entity or official is unsuccessful in demonstrating the burden of proof. (Sec. 1)
7. Provides that statute does not preempt or foreclose claims or remedies in support of parental rights that are available under the Arizona constitution, statutes or common law. (Sec. 1)
8. Adds that any attempt to encourage or coerce a minor child to withhold information from the child's parent is grounds for discipline of any employee of any institution. (Sec. 1)
9. Specifies that parental rights include the right of a parent to request, access and review all written and electronic medical records of their minor child. (Sec. 1)

#### ***Parental Access to Written and Electronic Records***

10. Entitles a parent access to all written and electronic records of a school district or charter school or employee concerning the parent's child and to all electronic accounts of the parent's child. (Sec. 4)
11. Allows a parent to file suit against a school district or charter school that fails to provide access to all written and electronic records concerning the parent's child in superior court. (Sec. 4)
12. States that a parent who successfully asserts a claim may recover appropriate relief. (Sec. 4)
13. Requires a school district's policies to include procedures by which parents may learn about the right to access all written and electronic records of a school district or school district employee concerning the parent's child. (Sec. 2)

#### ***Parental Consent for Surveys***

14. Requires, at least seven days before administering any survey to a pupil that solicits specified personal information about the pupil, every school district and charter school to:
  - a) Provide a copy of the survey to the pupil's parent along with a written informed consent form; and
  - b) Obtain, from the parent, written informed consent for the pupil to participate in the survey. (Sec. 3)
15. Alters the exams and surveys exempted from statutory parental consent requirements by:
  - a) Including in the exemption any exam administered by a nationally recognized college entrance or career readiness exam provider that a student takes on public school property, regardless of whether the exam is taken during the school day;
  - b) Removing from the exemption any survey that contains questions soliciting specified personal information about the student but that does not require any personally identifiable information; and
  - c) Adding the stipulation that a survey conducted by the Arizona Criminal Justice Commission is exempt if the school district or charter school provides the pupil's parent with a copy or electronic access to the survey at least seven days prior to administration. (Sec. 3)

#### ***Miscellaneous***

16. Makes technical changes. (Sec. 1, 2, 3)
17. Makes conforming changes. (Sec. 1, 3)