STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1384

By: Kern, Hulbert, Fisher, Cockroft, Walker, Murphey, Blackwell, Bennett and Turner of the House

and

Griffin and Shortey of the Senate

COMMITTEE SUBSTITUTE

An Act relating to parental rights; creating the Parents' Bill of Rights; providing short title; prohibiting governmental entities from infringing upon parental rights unless certain criteria is met; defining term; listing rights which are reserved to the parent; providing exception; construing provision; proscribing limitation or denial of parental rights; restricting applicability in certain cases; directing the board of education of a school district to develop certain policy; providing items to be included in the policy; listing parental rights related to education; allowing board to provide policy in electronic form; requiring parent to submit a written request for information at certain time; directing principal or superintendent to deliver information within certain time; providing for written request to board in certain cases; directing board to consider request; prohibiting surgical procedure on minor without parental consent; providing exception; defining term; providing exception; prescribing penalty for violation; prohibiting mental health evaluation of minor without parental consent; providing exception; prescribing penalty for violation; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2001 of Title 25, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Parents' Bill of Rights".

B. This state, any political subdivision of this state or any other governmental entity shall not infringe on the right of parents to direct the upbringing, education, health care and mental health of their children without demonstrating that the compelling 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.

C. As used in the Parents' Bill of Rights, "parent" means the natural or adoptive parent or legal guardian of a minor child.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2002 of Title 25, unless there is created a duplication in numbering, reads as follows:

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 70 of the Oklahoma Statutes, including the right to access and review all school 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 healthcare decisions for the minor child, 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, shared or stored;

8. The right to consent in writing before any record of the minor child's blood or deoxyribonucleic acid (DNA) is created, stored or shared, except as required by Sections 1-516 and 1-524.1 of Title 63 of the Oklahoma Statutes, or unless authorized pursuant to 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, by law enforcement officers during

or as part of a law enforcement investigation, during or as part of a forensic interview in a criminal or Department of Human 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 student 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, and

e. a photo identification card; and

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 Department of Human 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 is routinely addressed as a student disciplinary matter by the school.

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 shall not be construed to apply to a parental action or decision that would end life. 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 reasonable and prudent 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. The Parents' Bill of Rights 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. The Parents' Bill of Rights shall not be construed to apply to a parental action or decision that would end life.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2003 of Title 25, unless there is created a duplication in numbering, reads as follows:

A. The board of education of a school district, 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 11-105.1 of Title 70 of the Oklahoma Statutes or pursuant to any rules adopted by the State Board of Education,

procedures to opt out of a school district from providing sex education instruction to a child if the child's parent provides written objection to the child's participation 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 pursuant to Section 11-105.1 of Title 70 of the Oklahoma Statutes;

6. Procedures by which parents may learn about the nature and purpose of clubs and activities that are part of the school curriculum, as well as extracurricular clubs and activities that have been approved by the school; and

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 out of a sex education curriculum if one is provided by the school district,

b. open enrollment rights,

c. the right to opt out of assignments pursuant to this section,

d. the right to be exempt from the immunization laws of the state pursuant to Section 1210.192 of Title 70 of the Oklahoma Statutes,

e. the promotion requirements prescribed in Section 1210.508E of Title 70 of the Oklahoma Statutes,

f. the minimum course of study and competency requirements for graduation from high school prescribed in Section 11-103.6 of Title 70 of the Oklahoma Statutes,

g. the right to opt out of instruction on the acquired immune deficiency syndrome pursuant to Section 11-103.3 of Title 70 of the Oklahoma Statutes,

h. the right to review test results,

i. the right to participate in gifted programs pursuant to Sections 1210.301 through 1210.308 of Title 70 of the Oklahoma Statutes,

j. the right to inspect instructional materials used in connection with any research or experimentation program or project pursuant to Section 11-106 of Title 70 of the Oklahoma Statutes,

k. the right to receive a school report card,

l. the attendance requirements prescribed in Section 10-106 of Title 70 of the Oklahoma Statutes,

m. the right to public review of courses of study and textbooks,

n. the right to be excused from school attendance for religious purposes,

o. policies related to parental involvement pursuant to this section,

p. the right to participate in parent-teacher associations and organizations that are sanctioned by the board of education of a school district, and

q. the right to opt out of any data collection instrument at the district level that would capture data for inclusion in the state longitudinal student data system except what is necessary and essential for establishing a student's public school record.

B. The board of education of a school district may adopt a policy to provide to parents the information required by this section in an electronic form.

C. 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 (10) 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 (15) days after submitting the request for information, the parent

may submit a written request for the information to the board of education of a school district, which shall formally consider the request at the next scheduled public meeting of the board if the request can be properly noticed on the agenda. If the request cannot be properly noticed on the agenda, the board of education of a school district shall formally consider the request at the next subsequent public meeting of the board.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2004 of Title 25, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by law, no person, corporation, association, organization, state-supported institution, or individual employed by any of these entities may procure, solicit to perform, arrange for the performance of, perform surgical procedures, or perform a physical examination upon a minor or prescribe any prescription drugs to a minor without first obtaining a written consent of a parent or legal guardian of the minor.

B. No hospital as defined in Section 1-701 of Title 63 of the Oklahoma Statutes may permit surgical procedures to be performed upon a minor in its facilities without first having received a written consent from a parent or legal guardian of the minor.

C. The provisions of this section shall not apply when it has been determined by a physician that an emergency exists and that it is necessary to perform such surgical procedures for the treatment

of an injury or drug abuse, or to save the life of the patient, or when such parent or legal guardian cannot be located or contacted after a reasonably diligent effort.

D. The provisions of this section shall not apply to an abortion, which shall be governed by the provisions of Sections 1-740 through 1-740.6 and Sections 1-744 through 1-744.6 of Title 63 of the Oklahoma Statutes or any successor statute.

E. A person who violates a provision of this section is guilty of a misdemeanor, punishable by a fine of not more than One Thousand Dollars ($1,000.00) or imprisonment of not more than one (1) year in the county jail, or by both such fine and imprisonment.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2005 of Title 25, unless there is created a duplication in numbering, reads as follows:

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 evaluation in a clinical or nonclinical setting or mental health treatment on a minor without first obtaining the written or oral consent of a parent or a legal guardian of the minor child. If the parental consent is given through telemedicine, the health professional must verify the identity of the parent 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 misdemeanor, punishable by a fine of not more than One Thousand Dollars ($1,000.00) or imprisonment of not more than one (1) year in the county jail, or by both such fine and imprisonment.

SECTION 6. This act shall become effective November 1, 2014.

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