

STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1384

By: Kern

COMMITTEE SUBSTITUTE

An Act relating to parental rights; creating the Parents' Bill of Rights; prohibiting the state 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:

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

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

6 B. The liberty of parents to direct the upbringing, education,
7 health care and mental health of their children is a fundamental
8 right.

9 C. This state, any political subdivision of this state or any
10 other governmental entity shall not infringe on these rights without
11 demonstrating that the compelling governmental interest as applied
12 to the child involved is of the highest order, is narrowly tailored
13 and is not otherwise served by a less restrictive means.

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

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

19 A. All parental rights are reserved to a parent of a minor
20 child without obstruction or interference from this state, any
21 political subdivision of this state, any other governmental entity
22 or any other institution, including, but not limited to, the
23 following rights:

24 1. The right to direct the education of the minor child;

1 2. All rights of parents identified in Title 70 of the Oklahoma
2 Statutes, including the right to access and review all school
3 records relating to the minor child;

4 3. The right to direct the upbringing of the minor child;

5 4. The right to direct the moral or religious training of the
6 minor child;

7 5. The right to make healthcare decisions for the minor child,
8 unless otherwise prohibited by law;

9 6. The right to access and review all medical records of the
10 minor child unless otherwise prohibited by law or the parent is the
11 subject of an investigation of a crime committed against the minor
12 child and a law enforcement official requests that the information
13 not be released;

14 7. The right to consent in writing before a biometric scan of
15 the minor child is made;

16 8. The right to consent in writing before any record of the
17 minor child's blood or deoxyribonucleic acid (DNA) is created,
18 stored or shared, except as required by Sections 1-516 and 1-524.1
19 of Title 63 of the Oklahoma Statutes, or unless authorized pursuant
20 to a court order;

21 9. The right to consent in writing before the state or any of
22 its political subdivisions makes a video or voice recording of the
23 minor child, unless the video or voice recording is made during or
24 as a part of a court proceeding, by law enforcement officers during

1 or as part of a law enforcement investigation, during or as part of
2 a forensic interview in a criminal or Department of Human Services
3 investigation or to be used solely for any of the following:

4 a. safety demonstrations, including the maintenance of
5 order and discipline in the common areas of a school
6 or on student transportation vehicles,

7 b. a purpose related to a legitimate academic or
8 extracurricular activity,

9 c. a purpose related to regular classroom instruction,

10 d. security or surveillance of buildings or grounds, and

11 e. a photo identification card; and

12 10. The right to be notified promptly if an employee of this
13 state, any political subdivision of this state, any other
14 governmental entity or any other institution suspects that a
15 criminal offense has been committed against the minor child by
16 someone other than a parent, unless the incident has first been
17 reported to law enforcement and notification of the parent would
18 impede a law enforcement or Department of Human Services
19 investigation. This paragraph does not create any new obligation
20 for school districts and charter schools to report misconduct
21 between students at school, such as fighting or aggressive play,
22 that is routinely addressed as a student disciplinary matter by the
23 school.

1 B. This section does not authorize or allow a parent to engage
2 in conduct that is unlawful or to abuse or neglect a child in
3 violation of the laws of this state. This section shall not be
4 construed to apply to a parental action or decision that would end
5 life. This section does not prohibit courts, law enforcement
6 officers or employees of a government agency responsible for child
7 welfare from acting in their official capacity within the reasonable
8 and prudent scope of their authority. This section does not
9 prohibit a court from issuing an order that is otherwise permitted
10 by law.

11 C. Any attempt to encourage or coerce a minor child to withhold
12 information from the child's parent shall be grounds for discipline
13 of an employee of this state, any political subdivision of this
14 state or any other governmental entity, except for law enforcement
15 personnel.

16 D. Unless those rights have been legally waived or legally
17 terminated, parents have inalienable rights that are more
18 comprehensive than those listed in this section. The Parents' Bill
19 of Rights does not prescribe all rights of parents. Unless
20 otherwise required by law, the rights of parents of minor children
21 shall not be limited or denied. The Parents' Bill of Rights shall
22 not be construed to apply to a parental action or decision that
23 would end life.

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

4 A. The board of education of a school district, in consultation
5 with parents, teachers and administrators, shall develop and adopt a
6 policy to promote the involvement of parents and guardians of
7 children enrolled in the schools within the school district,
8 including:

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

12 2. Procedures by which parents may learn about the course of
13 study for their children and review learning materials, including
14 the source of any supplemental educational materials;

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

22 4. If a school district offers any sex education curricula
23 pursuant to Section 11-105.1 of Title 70 of the Oklahoma Statutes or
24 pursuant to any rules adopted by the State Board of Education,

1 procedures to opt out of a school district from providing sex
2 education instruction to a child if the child's parent provides
3 written objection to the child's participation in the sex education
4 curricula;

5 5. Procedures by which parents will be notified in advance of
6 and given the opportunity to withdraw their children from any
7 instruction or presentations regarding sexuality in courses other
8 than formal sex education curricula pursuant to Section 11-105.1 of
9 Title 70 of the Oklahoma Statutes;

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

14 7. Procedures by which parents may learn about parental rights
15 and responsibilities under the laws of this state, including the
16 following:

- 17 a. the right to opt out of a sex education curriculum if
18 one is provided by the school district,
- 19 b. open enrollment rights,
- 20 c. the right to opt out of assignments pursuant to this
21 section,
- 22 d. the right to be exempt from the immunization laws of
23 the state pursuant to Section 1210.192 of Title 70 of
24 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

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

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

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

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

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

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

4 D. The provisions of this section shall not apply to an
5 abortion, which shall be governed by the provisions of Sections 1-
6 740 through 1-740.6 of Title 63 of the Oklahoma Statutes or any
7 successor statute.

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

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

15 A. Except as otherwise provided by law or a court order, no
16 person, corporation, association, organization or state-supported
17 institution, or any individual employed by any of these entities,
18 may procure, solicit to perform, arrange for the performance of or
19 perform mental health evaluation in a clinical or nonclinical
20 setting or mental health treatment on a minor without first
21 obtaining the written or oral consent of a parent or a legal
22 custodian of the minor child. If the parental consent is given
23 through telemedicine, the health professional must verify the
24 identity of the parent at the site where the consent is given.

1 B. This section does not apply when an emergency exists that
2 requires a person to perform mental health screening or provide
3 mental health treatment to prevent serious injury to or save the
4 life of a minor child.

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

9 SECTION 6. This act shall become effective November 1, 2013.

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