

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2244

Introduced by

Senators Paulson, Lemm, Wobbema

Representatives Hauck, Steiner, Rohr

1 A BILL for an Act to create and enact a new section to chapter 15.1-06 of the North Dakota
2 Century Code, relating to parental involvement in a child's education; and to amend and reenact
3 section 14-09-32.1 of the North Dakota Century Code, relating to a parent's interest in a child's
4 upbringing.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 14-09-32.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **14-09-32.1. Parent's interest in child's upbringing.**

- 9 1. As used in this section, a "parent" means parent or legal guardian not including a
10 school or other institution serving in loco parentis.
- 11 2. It is the public policy of the state that:
- 12 a. A parent retains the fundamental right and duty to exercise primary control over
13 the care, supervision, upbringing, and education of the parent's child;
- 14 b. A child has the right to protection from abuse and neglect; and
- 15 c. The state retains a compelling interest in preventing, assessing, investigating,
16 addressing, and prosecuting abuse and neglect.
- 17 3. This section may not be interpreted to supersede chapters 27-20.1, 27-20.2, 27-20.3,
18 and 27-20.4.
- 19 4. Notwithstanding any other provision of law, a state or local government entity may not
20 burden substantially a parent's fundamental right to exercise primary control over the

1 care, supervision, upbringing, and education of the parent's child, unless applying the
2 burden to the parent and the child is:

3 a. Essential to further a compelling state interest; and

4 b. The least restrictive means of furthering that compelling state interest.

5 5. Parental rights are reserved exclusively to a parent of a child without obstruction by or
6 interference from the state or a political subdivision or other public institution, including
7 the right to:

8 a. Direct the education of the child, including the right to choose public, private,
9 parochial, or home schooling, and the right to make reasonable choices within a
10 public school for the education of the child;

11 b. Access and review any educational record relating to the child that is controlled
12 by or in possession of a school or school board;

13 c. Direct the upbringing of the child;

14 d. Direct the moral or religious training of the child;

15 e. Make and consent to a physical or mental health care decision for the child;

16 f. Access and review any health or medical record relating to the child;

17 g. ~~Consent in writing before a biometric scan of the child is made, shared, or stored;~~

18 ~~h. Consent in writing before a record of the child's blood or deoxyribonucleic acid is~~
19 ~~created, stored, or shared, unless authorized pursuant to a court order;~~

20 ~~i. Consent in writing before a governmental entity makes a video or voice recording~~
21 ~~of the child, unless the video or voice recording is made during or as part of:~~

22 (1) A court proceeding;

23 (2) A law enforcement investigation;

24 (3) A forensic interview in a criminal or department of health and human
25 services investigation;

26 (4) The passive security or surveillance of buildings or grounds; or

27 (5) Any event during which an individual does not have a reasonable
28 expectation of privacy;

29 ~~j.h.~~ Promptly be notified by an authorized representative of the state or a political
30 subdivision or other public institution if an employee of the entity or institution
31 suspects abuse, neglect, or other criminal offense has been committed against

- 1 the child, unless the employee has reasonable cause to believe a parent of the
2 child committed the offense;
- 3 ~~k.i.~~ Opt the child out of any personal analysis, evaluation, survey, or data collection
4 by a school district except what is necessary to establish a student's educational
5 record;
- 6 ~~h.j.~~ Have the child excused from school attendance for religious purposes; and
7 ~~m.k.~~ Participate in parent-teacher organizations and other school organizations.
- 8 6. This section does not:
- 9 a. Authorize or allow a parent to abuse or neglect a child as provided under
10 sections 14-09-22 and 14-09-22.1;
- 11 b. Apply to a parental action or decision that would end life; ~~or~~
12 c. Prohibit a court from issuing an order otherwise permitted by law; ~~or~~
13 d. Prohibit a health care provider from providing medical care or other services to a
14 minor pursuant to the requirements of section 14-10-17.1, 14-10-18.1, 14-10-19,
15 or 14-10-20.
- 16 7. An employee of the state or a political subdivision or other public institution, except for
17 law enforcement personnel, may not encourage or coerce a child to withhold
18 information from the child's parent and may not withhold information that is relevant to
19 the physical, emotional, or mental health of the child from a child's parent.
- 20 8. a. A parent claiming to be aggrieved by a violation of this section may assert that
21 violation as a ~~claim~~:
- 22 (1) Claim in a judicial proceeding, if the parent has exhausted all other options
23 to resolve the offense through the normal channels offered by the state,
24 local government entity, political subdivision, or other political institution; or
25 ~~defense~~
- 26 (2) Defense in a judicial proceeding ~~and obtain~~.
- 27 b. If on the prevailing side of the judicial proceeding, the parent is entitled to
28 appropriate relief, including costs and reasonable attorney's fees.
- 29 c. A school board shall indemnify and hold harmless all school personnel for any
30 violations of this section.

1 **SECTION 2.** A new section to chapter 15.1-06 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Parental involvement in child's education.**

4 1. As used in this section, a "parent" means parent or legal guardian of a student of a
5 public school within the school district. The term does not include a school or other
6 institution serving in loco parentis.

7 2. The board of each school district shall:

8 a. Create a plan for parent participation in the school district, which must be
9 designed to improve parent and teacher cooperation in homework, attendance,
10 and discipline;

11 b. Provide parents with information about how to participate in the governance of
12 the school district through the elected school board;

13 c. Upon request, provide information to a parent about the course of study and
14 curriculum for the parent's child, including permitting a parent to:

15 (1) Review curriculum or teacher training materials for each class or course in
16 which a parent's child is enrolled;

17 (2) Review descriptions of assemblies, guest lectures, field trips, or other
18 educational activities facilitated by the child's school; and

19 (3) Meet with the teacher of the class or course, the school's principal, or
20 another representative from the school to discuss the relevant curriculum,
21 teacher training materials, or educational activities;

22 d. Notify a parent at least three days in advance and obtain the parent's written
23 consent before the parent's child receives instruction or attends a presentation
24 relating to gender stereotypes, gender identity, gender expression, sexual
25 orientation, or sexual relationships;

26 e. Permit a parent to withdraw the parent's child from instruction or presentations,
27 assemblies, guest lectures, field trips, or other educational activities facilitated by
28 a school, including those conducted by outside individuals or organizations,
29 conflicting with the parent's religious or moral beliefs or practices;

30 f. Upon request, provide a parent with information about the nature and purpose of
31 clubs and extracurricular activities at the school and may withdraw the parent's

child from a club or extracurricular activity. A student shall provide a signed parental permission form before participating in a club or extracurricular activity at the school;

g. Obtain a parent's written consent before the parent's child uses a name other than the child's legal name, derivative of the child's legal name, or personal pronouns that do not align with the child's sex. If a parent provides written consent, an individual may not be required to use a name or pronoun that does not align with the child's sex; and

h. Provide a parent with information about parental rights and responsibilities under the laws of this state.

3. The board of a school district may adopt a policy permitting parents to submit and receive the information required by this section in electronic form.

4. A parent shall submit a written or electronic request for information pursuant to this section to the school principal or the superintendent of the school district. Within ten days of receiving the request for information, the school principal or the superintendent shall deliver the requested information or a written explanation of the reasons for the denial of the requested information to the parent. If the request for information is denied or the parent does not receive the requested information within ten days, the parent may submit a written request for the information to the board of the school district, which shall consider the request during an executive session at the next meeting of the board.

5. a. A parent claiming to be aggrieved by a violation of this section may assert that violation as a ~~claim~~:

(1) Claim in a judicial proceeding, if the parent has exhausted all other options to resolve the offense through the normal channels offered by the school district; or ~~defense~~

(2) Defense in a judicial proceeding ~~and obtain~~.

b. If on the prevailing side of the judicial proceeding, the parents is entitled to appropriate relief, including costs and reasonable attorney's fees.

c. A school board shall indemnify and hold harmless all school personnel for any violations of this section.