

Introduced by

Senators Clemens, Boehm

Representatives Henderson, Kasper, Marschall

1 A BILL for an Act to create and enact two new sections to chapter 14-09, and two new sections
2 to chapter 15.1-09 of the North Dakota Century Code, relating to requiring parental consent for
3 minors' health care services, fundamental parental rights, a school district's obligation to notify
4 parents of their rights related to education, and data collection; and to provide a penalty.

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

6 **SECTION 1.** A new section to chapter 14-09 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Parental consent for health care services - Penalty.**

- 9 1. For purposes of this section, "health care practitioner" means an individual licensed
10 under chapter 43-05, 43-06, 43-12.1, 43-15, 43-17, 43-20, 43-25, 43-26.1, 43-28,
11 43-32, 43-33, 43-34, 43-37, 43-40, 43-42, 43-44, 43-45, 43-47, 43-48, 43-53, 43-58, or
12 43-61.
- 13 2. Except as otherwise provided by law, a health care practitioner, or an individual
14 employed by a health care practitioner, may not provide, solicit, or arrange to provide
15 health care services or prescribe medicinal drugs to a minor child without first
16 obtaining written parental consent.
- 17 3. Except as otherwise provided by law or a court order, a health facility licensed by the
18 department of health and human services may not allow a medical procedure to be
19 performed on a minor child in the health facility without first obtaining written parental
20 consent.
- 21 4. This section does not apply to:
- 22 a. An abortion, which is governed by section 14-02.1-03.1; or
- 23 b. Services provided by a clinical laboratory, unless the services are delivered
24 through a direct encounter with the minor at the clinical laboratory facility.

1 5. A health care practitioner or other person that violates this section is guilty of a class B
2 misdemeanor.

3 **SECTION 2.** A new section to chapter 14-09 of the North Dakota Century Code is created
4 and enacted as follows:

5 **Parental rights.**

6 1. The state, a political subdivision, or other governmental entity may not infringe on the
7 fundamental right of a parent to direct the upbringing, education, health care, and
8 mental health of the parent's minor child without demonstrating the action is
9 reasonable and necessary to achieve a compelling state interest and the action is
10 narrowly tailored and is not otherwise served by less restrictive means.

11 2. Parental rights are reserved to the parent of a minor child without obstruction or
12 interference from the state, a political subdivision, or other governmental entity. The
13 rights of a parent of a minor child include the right to:

14 a. Direct the education and care of the minor child.

15 b. Direct the upbringing and the moral or religious training of the minor child.

16 c. Apply to enroll the minor child in a public school, private school, home education
17 program, or other available option as authorized by law.

18 d. Access and review all school records relating to the minor child.

19 e. Make health care decisions for the minor child, unless otherwise prohibited by
20 law.

21 f. Access and review all medical records of the minor child, unless prohibited by
22 law or the parent is the subject of an investigation of a crime committed against
23 the minor child and a law enforcement agency or official requests the information
24 not be released.

25 g. Consent in writing before a biometric scan of the minor child is made, shared, or
26 stored.

27 h. Consent in writing before any record of the minor child's blood or
28 deoxyribonucleic acid is created, stored, or shared, except as required by law or
29 authorized pursuant to a court order.

30 i. Consent in writing before the state or a political subdivision makes a video or
31 voice recording of the minor child, unless the recording is:

- 1 (1) Made as part of a court proceeding;
- 2 (2) Made as part of a forensic interview in a criminal investigation or department
- 3 of health and human services investigation; or
- 4 (3) To be used solely for:
- 5 (a) A safety demonstration, including the maintenance of order and
- 6 discipline in the common areas of a school or on student
- 7 transportation vehicles;
- 8 (b) A purpose related to a legitimate academic or extracurricular activity;
- 9 (c) A purpose related to regular classroom instruction;
- 10 (d) Security or surveillance of buildings or grounds; or
- 11 (e) A photo identification card.
- 12 j. Be notified promptly if an employee of the state, a political subdivision, or other
- 13 governmental entity suspects a criminal offense has been committed against the
- 14 minor child, unless the incident first has been reported to law enforcement or the
- 15 department of health and human services and notifying the parent would impede
- 16 the investigation.
- 17 3. This section does not:
- 18 a. Authorize a parent of a minor child to engage in unlawful conduct or to abuse or
- 19 neglect the minor child.
- 20 b. Condone, authorize, approve, or apply to a parental action or decision that would
- 21 end life.
- 22 c. Prohibit a court of competent jurisdiction, law enforcement officer, or employee of
- 23 a government agency responsible for child welfare from acting in the individual's
- 24 official capacity within the reasonable and prudent scope of the individual's
- 25 authority.
- 26 d. Prohibit a court of competent jurisdiction from issuing an order otherwise
- 27 permitted by law.
- 28 4. An employee of the state, a political subdivision, or other governmental entity who
- 29 encourages or coerces, or attempts to encourage or coerce, a minor child to withhold
- 30 information from the minor's parent may be subject to disciplinary action.

1 5. A parent of a minor child has inalienable rights that are more comprehensive than
2 those listed in this section, unless such rights have been legally waived or terminated.
3 This section does not prescribe all rights to a parent of a minor child. Unless required
4 by law, the rights of a parent of a minor child may not be limited or denied.

5 **SECTION 3.** A new section to chapter 15.1-09 of the North Dakota Century Code is created
6 and enacted as follows:

7 **School district notifications on parental rights.**

- 8 1. For purposes of this section, "instructional materials" means materials used in the
9 classroom, including workbooks, worksheets, handouts, software, applications, and
10 digital media made available to students.
- 11 2. In consultation with parents, teachers, and administrators, the board of a school
12 district shall develop and adopt a policy to promote parental involvement in the public
13 school system. The policy must include a:
- 14 a. Plan for parental participation in schools to improve parent and teacher
15 cooperation in areas such as homework, school attendance, and discipline.
- 16 b. Procedure for a parent to learn about the parent's minor child's course of study,
17 including the source of any supplemental education materials.
- 18 c. Procedure for a parent to object to instructional materials and other materials
19 used in the classroom. The objection may be based on a belief regarding
20 morality, sex, and religion or the belief the materials are harmful.
- 21 d. Procedure for a parent to withdraw the parent's minor child from any portion of
22 the school district's comprehensive health education which relates to sex
23 education or instruction in acquired immune deficiency syndrome education or
24 any instruction regarding sexuality if the parent provides a written objection to the
25 parent's minor child's participation. The procedure must provide for a parent to be
26 notified in advance of the course so the parent may withdraw the minor child from
27 those portions of the course.
- 28 e. Procedure for a parent to learn about the nature and purpose of clubs and
29 activities offered at the minor child's school.
- 30 f. Procedure for a parent to learn about parental rights and responsibilities,
31 including the right to:

- 1 (1) Opt a minor child out of any portion of the school district's comprehensive
- 2 health education which relates to sex education instruction in acquired
- 3 immune deficiency syndrome education or any instruction regarding
- 4 sexuality.
- 5 (2) School choice options including open enrollment, under chapter 15.1-31.
- 6 (3) Exempt a minor child from immunizations, under section 23-07-17.1.
- 7 (4) Review statewide, standardized assessment results.
- 8 (5) Enroll the minor child in gifted or special education programs.
- 9 (6) Inspect school district instructional materials.
- 10 (7) Access information relating to the school district's policies for promotion or
- 11 retention, including high school graduation requirements.
- 12 (8) Receive a school report card and be informed of the minor child's
- 13 attendance requirements.
- 14 (9) Access information relating to the state public education system, state
- 15 standards, and report card, attendance, and instructional materials
- 16 requirements.
- 17 (10) Participate in parent-teacher associations and organizations.
- 18 3. A board of a school district may provide the information required in this section
- 19 electronically or post the information on the district's website.
- 20 4. A parent may request, in writing, from the superintendent of the school district the
- 21 information required under this section. Within ten days of receiving a written request,
- 22 the superintendent shall provide the information to the parent. If the superintendent
- 23 denies a parent's request for information or does not respond to the parent's request
- 24 within ten days, the parent may appeal the denial to the board of the school district.
- 25 The board shall place a parent's appeal on the agenda for the board's next public
- 26 meeting. If it is too late for a parent's appeal to appear on the next agenda, the appeal
- 27 must be included on the agenda for the subsequent board meeting.

28 **SECTION 4.** A new section to chapter 15.1-09 of the North Dakota Century Code is created
29 and enacted as follows:

- 1 **Data collection.**
- 2 A school district may not collect district-level data relating to a minor child unless the
- 3 collection of data is required by law.