

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

- 1 a. Essential to further a compelling state interest; and
- 2 b. The least restrictive means of furthering that compelling state interest.
- 3 5. Parental rights are reserved exclusively to a parent of a child without obstruction by or
- 4 interference from the state or a political subdivision or other public institution, including
- 5 the right to:
- 6 a. Direct the education of the child, including the right to choose public, private,
- 7 parochial, or home schooling, and the right to make reasonable choices within a
- 8 public school for the education of the child;
- 9 b. Access and review any educational record relating to the child that is controlled
- 10 by or in possession of a school or school board;
- 11 c. Direct the upbringing of the child;
- 12 d. Direct the moral or religious training of the child;
- 13 e. Make and consent to a physical or mental health care decision for the child;
- 14 f. Access and review any health or medical record relating to the child;
- 15 g. Consent in writing before a biometric scan of the child is made, shared, or stored;
- 16 h. Consent in writing before a record of the child's blood or deoxyribonucleic acid is
- 17 created, stored, or shared, unless authorized pursuant to a court order;
- 18 i. Consent in writing before a governmental entity makes a video or voice recording
- 19 of the child, unless the video or voice recording is made during or as part of:
- 20 (1) A court proceeding;
- 21 (2) A law enforcement investigation;
- 22 (3) A forensic interview in a criminal or department of health and human
- 23 services investigation;
- 24 (4) The passive security or surveillance of buildings or grounds; or
- 25 (5) Any event during which an individual does not have a reasonable
- 26 expectation of privacy;
- 27 j. Promptly be notified by an authorized representative of the state or a political
- 28 subdivision or other public institution if an employee of the entity or institution
- 29 suspects abuse, neglect, or other criminal offense has been committed against
- 30 the child, unless the employee has reasonable cause to believe a parent of the
- 31 child committed the offense;

- 1 k. Opt the child out of any personal analysis, evaluation, survey, or data collection
2 by a school district except what is necessary to establish a student's educational
3 record;
- 4 l. Have the child excused from school attendance for religious purposes; and
5 m. Participate in parent-teacher organizations and other school organizations.
- 6 6. This section does not:
- 7 a. Authorize or allow a parent to abuse or neglect a child as provided under
8 sections 14-09-22 and 14-09-22.1;
- 9 b. Apply to a parental action or decision that would end life; or
10 c. Prohibit a court from issuing an order otherwise permitted by law.
- 11 7. An employee of the state or a political subdivision or other public institution, except for
12 law enforcement personnel, may not encourage or coerce a child to withhold
13 information from the child's parent and may not withhold information that is relevant to
14 the physical, emotional, or mental health of the child from a child's parent.
- 15 8. A parent claiming to be aggrieved by a violation of this section may assert that
16 violation as a claim or defense in a judicial proceeding and obtain appropriate relief,
17 including costs and reasonable attorney's fees. A school board shall indemnify and
18 hold harmless all school personnel for any violations of this section.

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

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

- 22 1. As used in this section, a "parent" means parent or legal guardian of a student of a
23 public school within the school district. The term does not include a school or other
24 institution serving in loco parentis.
- 25 2. The board of each school district shall:
- 26 a. Create a plan for parent participation in the school district, which must be
27 designed to improve parent and teacher cooperation in homework, attendance,
28 and discipline;
- 29 b. Provide parents with information about how to participate in the governance of
30 the school district through the elected school board;

- 1 c. Upon request, provide information to a parent about the course of study and
2 curriculum for the parent's child, including permitting a parent to:
3 (1) Review curriculum or teacher training materials for each class or course in
4 which a parent's child is enrolled;
5 (2) Review descriptions of assemblies, guest lectures, field trips, or other
6 educational activities facilitated by the child's school; and
7 (3) Meet with the teacher of the class or course, the school's principal, or
8 another representative from the school to discuss the relevant curriculum,
9 teacher training materials, or educational activities;
10 d. Notify a parent at least three days in advance and obtain the parent's written
11 consent before the parent's child receives instruction or attends a presentation
12 relating to gender stereotypes, gender identity, gender expression, sexual
13 orientation, or sexual relationships;
14 e. Permit a parent to withdraw the parent's child from instruction or presentations,
15 assemblies, guest lectures, field trips, or other educational activities facilitated by
16 a school, including those conducted by outside individuals or organizations,
17 conflicting with the parent's religious or moral beliefs or practices;
18 f. Upon request, provide a parent with information about the nature and purpose of
19 clubs and extracurricular activities at the school and may withdraw the parent's
20 child from a club or extracurricular activity. A student shall provide a signed
21 parental permission form before participating in a club or extracurricular activity at
22 the school;
23 g. Obtain a parent's written consent before the parent's child uses a name other
24 than the child's legal name, derivative of the child's legal name, or personal
25 pronouns that do not align with the child's sex. If a parent provides written
26 consent, an individual may not be required to use a name or pronoun that does
27 not align with the child's sex; and
28 h. Provide a parent with information about parental rights and responsibilities under
29 the laws of this state.
30 3. The board of a school district may adopt a policy permitting parents to submit and
31 receive the information required by this section in electronic form.

- 1 4. A parent shall submit a written or electronic request for information pursuant to this
2 section to the school principal or the superintendent of the school district. Within
3 ten days of receiving the request for information, the school principal or the
4 superintendent shall deliver the requested information or a written explanation of the
5 reasons for the denial of the requested information to the parent. If the request for
6 information is denied or the parent does not receive the requested information within
7 ten days, the parent may submit a written request for the information to the board of
8 the school district, which shall consider the request during an executive session at the
9 next meeting of the board.
- 10 5. A parent claiming to be aggrieved by a violation of this section may assert that
11 violation as a claim or defense in a judicial proceeding and obtain appropriate relief,
12 including costs and reasonable attorney's fees. A school board shall indemnify and
13 hold harmless all school personnel for any violations of this section.