

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2260

Introduced by

Senators Paulson, Lemm, Wobbema

Representatives Dyk, Heilman, Novak

1 A BILL for an Act to create and enact a new section to chapter 14-09, and a new section to
2 chapter 15.1-09, ~~and a new section to chapter 23-12~~ of the North Dakota Century Code, relating
3 to fundamental parental rights, and parental involvement in education, ~~and parental right to~~
4 ~~consent to medical treatment of the parent's child.~~

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 rights and responsibilities - Fundamental rights.**

9 1. As used in this section, unless the context otherwise requires:

10 a. "Child" means an individual under the age of eighteen.

11 b. "Parent" means a biological parent of a child, an adoptive parent of a child, or an
12 individual who has been granted exclusive right and authority over the welfare of
13 a child under state law.

14 2. This state, any political subdivision, or any other governmental entity may not
15 substantially burden the fundamental right of a parent to direct the upbringing,
16 education, health care, ~~and mental health,~~ and moral or religious training of that
17 parent's child without demonstrating that the burden is required by a compelling
18 governmental interest of the highest order as applied to the parent and the child and is
19 the least restrictive means of furthering that compelling governmental interest.

20 3. Parental rights are reserved exclusively to a parent of a child without obstruction by or
21 interference from the state, a political subdivision, ~~or a governmental entity, or other~~
22 institution, including the right to:

4. This section does not authorize or allow a parent to abuse or neglect a child as provided under sections 14-09-22 and 14-09-22.1.

5. This section does not:

a. Apply to a parental action or decision that would end life.

b. Prohibit a court from issuing an order that is otherwise permitted by law.

6. An employee of the state, a political subdivision, or a governmental entity, except for law enforcement personnel, may not encourage or coerce a child to withhold information from the child's parent and may not withhold information that is relevant to the physical, emotional, or mental health of the child from a child's parent.

7. A parent may bring suit for a violation of this section and may raise the section as a defense in a judicial or administrative proceeding whether the proceeding is brought by or in the name of the state, a private person, or other party. A person that successfully asserts a claim or defense under this chapter may recover declaratory relief, injunctive relief, compensatory damages, reasonable attorney's fees and costs, and other appropriate relief, ~~unless the claim is asserted against a government employee. Equitable relief is the only remedy available for a claim against a government employee.~~ A school board shall indemnify and hold harmless all school personnel for a violation of this section.

SECTION 2. A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

Parental involvement.

1. As used in this section, unless the context otherwise requires:

a. "Child" means an individual under the age of eighteen.

b. "Curriculum" includes textbooks; reading materials; handouts; videos; presentations; digital materials; websites; online applications; digital applications for a phone, laptop, or tablet; questionnaires; surveys; or other written or electronic materials that have been or will be assigned, distributed, or otherwise presented physically or virtually to students in a class or course.

c. "Educational records" includes attendance records, test scores of school-administered tests and statewide assessments, grades, extracurricular activity or club participation, electronic mail accounts, online or virtual accounts or data.

c. ~~Procedures to notify~~allow a parent ~~at least three days in advance and obtain the~~
~~parent's written consent before the parent's child attends~~to opt-out of any
~~instruction or presentation that relates to gender roles or stereotypes, gender~~
~~identity, gender expression, sexual orientation, or romantic or sexual~~
~~relationships~~the parent deems inappropriate for that parent's child;

d. ~~Procedures for a parent to object to a specific presentation or instruction on the~~
~~basis the presentation or instruction is harmful and to withdraw that parent's child~~
~~from the presentation or instruction. A parent may object to a specific~~
~~presentation or instruction that questions beliefs or practices regarding sex,~~
~~morality, or religion based on harmfulness;~~

~~e. A procedure to inform a parent about the nature and purpose of clubs and~~
~~extracurricular activities approved by the school and a procedure to withdraw that~~
~~parent's child from a club or extracurricular activity;~~

~~f. Procedures requiring parental written consent before a child uses a name or~~
~~nickname other than the child's legal name, or before a child uses a pronoun that~~
~~does not align with the child's sex. Notwithstanding parental consent, a school~~
~~may not require an individual to use pronouns that do not align with the child's~~
~~sex; and~~

~~g. Procedures by which a parent may learn about parental rights and~~
~~responsibilities under the laws of this state~~this section and section 1 of this Act;
and

~~e. A policy providing a school may not require an individual to use pronouns to refer~~
~~to a child which do not align with the child's sex.~~

3. The board of a school district may adopt a policy to publish the information required by
this section in an 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

1 ~~3. If the parental consent pursuant to subsection 2 is given through telemedicine, the~~
2 ~~individual or entity obtaining parental consent must verify the identity of the parent at~~
3 ~~the site where the consent is given.~~

4 ~~4. This section does not apply when it has been determined by a physician that:~~

5 ~~a. An emergency exists; and~~

6 ~~b. Either of the following conditions is true:~~

7 ~~(1) It is necessary to perform an activity listed in subsection 1 to prevent death~~
8 ~~or imminent, irreparable physical injury to the child, or~~

9 ~~(2) The individual or entity obtaining parental consent cannot locate or contact~~
10 ~~the parent of the child after a reasonably diligent effort.~~

11 ~~5. This section does not apply to:~~

12 ~~a. An abortion, which is governed by section 14-02.1-03.1;~~

13 ~~b. The treatment of a sexually transmitted disease or substance use disorder under~~
14 ~~section 14-10-17;~~

15 ~~c. Emergency care of a minor under section 14-10-17.1;~~

16 ~~d. Blood donation under section 14-10-18.1;~~

17 ~~e. Prenatal care and other pregnancy care services under section 14-10-19; or~~

18 ~~f. Health care for an unaccompanied homeless minor under section 14-10-20.~~

19 ~~6. A parent may bring suit for a violation of this section and may raise this section as a~~
20 ~~defense in a judicial or administrative proceeding whether the proceeding is brought~~
21 ~~by or in the name of the state or other person. A person that successfully asserts a~~
22 ~~claim or defense under this chapter may recover declaratory relief, injunctive relief,~~
23 ~~compensatory damages, reasonable attorney's fees and costs, and other appropriate~~
24 ~~relief.~~