

Sixty-ninth
Legislative Assembly
of North Dakota

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; 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; and to declare an emergency.

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:

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

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

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

k. Opt the child out of any personal analysis, evaluation, survey, or data collection by a school district except what is necessary to establish a student's educational record;

l. Have the child excused from school attendance for religious purposes; and

m. Participate in parent-teacher organizations and other school organizations.

6. This section does not:

a. Authorize or allow a parent to abuse or neglect a child as provided under sections 14-09-22 and 14-09-22.1;

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

c. Prohibit a court from issuing an order otherwise permitted by law.

7. An employee of the state or a political subdivision or other public institution, 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.

8. A parent claiming to be aggrieved by a violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees. A school board shall indemnify and hold harmless all school personnel for any violations of this section.

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

Parental involvement in child's education.

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

2. The board of each school district shall:

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

b. Provide parents with information about how to participate in the governance of 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.

14 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.