

Good morning Chairman Heinert and members of the House Education Committee. For the record, my name is Senator Bob Paulson from District 3 in Minot. I'm here to introduce SB 2244.

SB 2244 is a bill to codify parental rights in North Dakota. The US Supreme Court found in the 1977 case of *Washington v. Glucksberg* that the Constitution, and specifically the Due Process Clause of the Fourteenth Amendment, protects the fundamental right of parents to direct the care, upbringing, and education of their children, so this fundamental right has been codified by the Supreme Court. In the 2000 case of *Troxel v. Granville*, the US Supreme Court found that "The Due Process Clause does not permit a State to infringe on the fundamental right of parents to make childrearing decisions simply because a state judge believes a 'better' decision could be made."

A Fundamental right is a right that has been recognized by the Supreme Court as requiring a high degree of protection from government encroachment. Courts apply a strict scrutiny standard when reviewing laws that might infringe on fundamental rights, meaning the government must demonstrate a compelling reason to restrict them.

Approximately 32 states recognize fundamental parental rights and call for strict scrutiny as a matter of judicial precedent. 18 states have codified the fundamental rights of parents in their law, so this is not new ground that is being plowed here.

We have seen the challenge to parental rights nationally, for example, as parents learned more about what their children were being taught during COVID, they raised concerns at school board meetings and were met with threat of FBI investigation. That wasn't limited to any one state—the FBI's memo applied nationwide, including right here in North Dakota.

There are some things that I believe we need to affirm and codify in North Dakota, and this bill seeks to do so:

1. That Children are born to parents and into families that form the building blocks of a society.
2. That the laws of a society should affirm the natural order of parents raising their children and reject the idea that children are products and property of the government.
3. That we must protect the fundamental right and duty of parents to direct the upbringing and education of their children.

When it comes to Public School Curricula, there should be:

Accountability: School boards and school administrators should not betray parents' trust by hiding information or indoctrinating students with ideas directly contrary to their family's sincerely held beliefs.

Choice: Parents should know what their children are taught and should have the freedom to opt-out of controversial curriculum.

Transparency: Parents are ultimately responsible for their children. Public schools have a responsibility and duty to be transparent about what they are teaching children and to respect parents' wishes when it comes to divisive and potentially harmful issues including gender ideology or things like critical race theory.

A parent's right to direct their children's upbringing and education does not end at the schoolhouse door.

Mr. Chairman, as a result of opposition testimony in the Senate by the Hospital Association, I have had an amendment prepared which has been provided to the committee members to address some of the hospital's concerns. You could argue the necessity of the amendment, because Section 1 of this bill only applies to state and local government entities and not to private or non-profit entities, but I would like to use that amendment number 2001 and briefly go through the bill.

Mister Chairman, that concludes my testimony and I would be happy to stand for any questions.

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

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

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

- 27 1. As used in this section, a "parent" means parent or legal guardian of a student of a
28 public school within the school district. The term does not include a school or other
29 institution serving in loco parentis.
- 30 2. The board of each school district shall:

- 1 consent, an individual may not be required to use a name or pronoun that does
2 not align with the child's sex; and
3 h. Provide a parent with information about parental rights and responsibilities under
4 the laws of this state.
5 3. The board of a school district may adopt a policy permitting parents to submit and
6 receive the information required by this section in electronic form.
7 4. A parent shall submit a written or electronic request for information pursuant to this
8 section to the school principal or the superintendent of the school district. Within
9 ten days of receiving the request for information, the school principal or the
10 superintendent shall deliver the requested information or a written explanation of the
11 reasons for the denial of the requested information to the parent. If the request for
12 information is denied or the parent does not receive the requested information within
13 ten days, the parent may submit a written request for the information to the board of
14 the school district, which shall consider the request during an executive session at the
15 next meeting of the board.
16 5. A parent claiming to be aggrieved by a violation of this section may assert that
17 violation as a claim or defense in a judicial proceeding and obtain appropriate relief,
18 including costs and reasonable attorney's fees. A school board shall indemnify and
19 hold harmless all school personnel for any violations of this section.