

Senate Education Committee

Kat Bourque 271-3093

SB 43, relative to non-academic surveys administered by a public school to its students.

Hearing Date: January 24, 2017

Time Opened: 10:00 a.m.

Time Closed: 10:39 a.m.

Members of the Committee Present: Senators Reagan, Ward, Watters and Kahn

Members of the Committee Absent : Senator Giuda

Bill Analysis : This bill provides that no student shall be required to volunteer or submit to a non-academic survey or questionnaire without written consent of a parent or legal guardian. The bill also creates an exception to this requirement for the youth risk behavior survey developed by the Centers for Disease Control and Prevention.

Sponsors :

Sen. Avar

Sen. Reagan

Sen. Birdsell

Sen. Daniels

Sen. French

Sen. Ward

Rep. Murotake

Rep. V. Sullivan

Rep. Hill

Rep. O'Day

Rep. Ladd

Who supports the bill: Senator Avar, Senator Ward, Senator Birdsell, Senator Daniels, Senator French, Ann Marie Banfield (Cornerstone), Senator Reagan, Deb Hobson, Representative Seidel

Who opposes the bill: Carl Ladd (New Hampshire School Administrators Association), Senator Innis, Jacqui Baker (All Together Community Coalition c/o Dartmouth Hitchcock), Jan Nisbet (UNH), Ken Norton (NAMI NH), J.J. Smith (NH Public Health Association)

Who is neutral on the bill: Michele Merritt (New Futures)

Summary of testimony presented in support :

Senator Avar

Prime Sponsor

- This bill was brought up last year and passed both the House and Senate.
- The language was generated out of a study committee that wanted to follow the guidelines of federal standards that do not allow personal questions on surveys without parental consent. This includes sexual and religious questions.
- The whole concept of this bill is to allow parents to give written permission to opt-in after the parents review the survey.
- Senator Kahn confirmed that instead of opt-out, this bill is opt-in. Senator Avar stated that this is correct. The bill protects parents' rights and follows federal guidelines.

- Senator Kahn added that opt-out surveys are currently made available to families and students. The difference in the population that might take a survey that is opt-out versus opt-in could amount to a variation in responses. Senator Avard agreed that there would be skewed results. He stressed, however, the importance of protecting parental rights as they are the guardians of this information. Although some parents do not care, there are many that do. The parents that do care should not be punished and their rights should not be averted.

Deb Hobson

- Ms. Hobson is a parent and a school board member.
- Her son was involved with a non-academic survey. The survey had been taking place for five years when she found out about it.
- She explained that this was an activity during social studies class. The teacher asked all the students to stand in a line and step forward or step back based on their answers. The questions involved religion, race, status, sexual preference, bullying, family arrests, ancestry of slavery, and diets. The activity created a divide and photos were taken at the end to show where students ended up.
- She added that she was never given notice or an opportunity to opt-in or opt-out.
- If children had answered questions that proved to be issues, the parents were not notified.
- This activity was not brought before the school board, and none of the administrators knew about it.
- Senator Watters stated that he understands the concerns as a parent. He added that this legislation may not be relevant to the particular situation that she was describing since this was not a survey or a questionnaire. Ms. Hobson stated that it was, however, a non-academic activity. Senator Watters clarified that this activity would not be affected in any way by this legislation.

Anne Marie Banfield

Cornerstone Research

- Ms. Banfield announced her support for SB 43.
- She stated that this bill is a result of study committee HB 206 in 2015.
- She added that it will take extra effort from parents to fill out the surveys, but that this is worth the extra effort.
- Ms. Banfield submitted former written testimony from Jon DiPietro that shows the anonymity of survey.
- Parents are concerned that disturbing questions could drum up repressed emotions or trauma that they are unable to discuss with their children.
- Public administrators and bureaucrats will always ask for things that make their jobs easier.
- Industry surveys should require surveys to be opt-in. There is no reason to carve out a different standard for these surveys.
- She spoke of issue in Bedford. Students were writing their names on the surveys and

this sacrificed their anonymity.

- Ms. Banfield added that some surveys have concerning questions that could instruct students on drug use.

Summary of testimony presented in opposition :

Carl Ladd

NH School Administrators

- Mr. Ladd expressed concern that language already exists for parents to opt-out, either in writing or electronically.
- Many schools survey their students to try to gauge school climate. This could be considered a non-academic survey under this particular designation. Parents would then have to opt-in instead of opt out.
- Mr. Ladd believes that the more we try to restrict the ability for school districts to interact with students, the more detrimental their education becomes.
- In summary, this law already exists by allowing for opt-out. Local districts should be responsible for monitoring and implementing that law.
- Senator Reagan asked if a parent currently has the opportunity to monitor these surveys. Mr. Ladd explained that yes, they already have the opportunity to opt-out by being notified if there is a non-academic survey or questionnaire.
- Senator Watters noted that he appreciates that the Youth Risk Behavior Survey is one of value. He asked if Mr. Ladd agrees that it's difficult to separate out what a non-academic survey is. Mr. Ladd agreed.
- Senator Watters stated that both he and Senator Stiles worked hard through the opioid task force to pass legislation that requires drug and alcohol education in grades K-12. If we don't have survey results on this issue, it would be difficult to craft curriculum on this issue. Mr. Ladd agreed.
- Senator Watters added that this bill might need to be amended so that there is a requirement that the school district inform parents of the percentage of parents who are opting out so that they now know that this info isn't reliable anymore. Mr. Ladd added that this would seem fair.

Senator Innis

- Senator Innis explained that he is speaking from three roles: a fellow senator, a parent, and a professor.
- When he initially saw this bill he was inclined to support it, as a parent who understands and respects privacy.
- Through the process of considering the bill, he thought about his career and research from the point of view of a professor. He spent a great deal of his career doing opt-in survey research by sending surveys to businesses. Even with incentives, one lucky to receive 10-20% response rates. Then, one has to run bias checks to make sure the results are valid.
- On the other side, he has done a lot of consumer behavior research dealing with how

people process and recall information. When you conduct this research at a university level, you must go in front of an institutional research board to show them the survey and explain how the research will take place. This group looks at what you are doing to ensure that you will do no harm and that privacy of respondents will be respected, if necessary.

- On the parental side, he understands the need to protect children. All of his children have gone through public school.
- He stressed that the state also needs to ensure that we continue to develop education that will continue to improve students' learning.
- Students who come from poorer families and are more at risk are less likely to take part in an opt-in survey. It is important that we know where these students are coming from. Knowledge and understanding beyond the curriculum can help us be more effective inside and outside of schools.
- He agreed that it is problematic that skewed results will occur from opt-in surveys. He doubts that people will even take part in such surveys if this is the case.
- Senator Innis offered the committee an amendment to this bill that may help to enable research in a manner that will not skew results and will give legislators helpful information to develop public policy.
- Amendment copies were available and included a sentence regarding research projects that have received approval from institutional research board and are registered and active.
- He believes that the amendment helps to keep the spirit of the bill while furthering research opportunities.

Jan Nisbet
UNH

- Ms. Nisbet stated that the University of New Hampshire is in opposition to the bill.
- She explained that an act of consent or an opt-in requirement will make research work unnecessarily expensive and unreliable.
- This bill would limit the availability of dependable data that helps to ensure the wellbeing of New Hampshire families.
- Opt-in consent to surveys will give an underrepresentation of poor families, at risk families, and the like.
- This bill exempts the Youth Risk Behavior Survey because of concerns for the opt in-issue. However, this is just one survey with limited questions administered every other year. While this is important, it is not the only instrument that should be used and is inadequate.
- Senator Reagan asked why the research community's issues with gathering data should become the problem of New Hampshire students and their parents. Ms. Nisbet explained that she is not obligating the support of research, but research is

being collected for higher purposes such as school district interventions, working and the like. Data collection is not taking place for individual needs but for the greater good.

- She noted that she understands the desire of parents to be informed. Currently, rigorous review processes are in place at many institutions.
- Research has found that students who don't participate in these surveys are more at risk for dicey behavior.
- She stressed her support for the amendment presented by Senator Innis.
- Senator Watters spent a number of years working on child sexual abuse prevention education. He passed a bill that required education on this topic. He asked, given what we know about the number of students who are involved in sexual abuse, whether we would know about this without survey data. Ms. Nisbet agreed that survey data is vital in order to help craft education.
- Senator Watters stated that the function of this research is to provide parents with the information that they need to understand the environment of their student both socially and educationally. He asked if she agreed that parents have certain rights to understand the environment in which their children are learning. Ms. Nisbet stated that she absolutely agreed
- She added that institutional review boards will require, in some research, an opt-in option. They scrutinize the research to decide what is appropriate.
- Senator Kahn asked if this bill is just dealing with one kind of survey done at IRB institutions. Ms. Nisbet explained that if a school district wants to conduct a survey and his bill prevails, there could be limitations placed on that school district. She stated that IRBs may review the surveys for school boards if they choose to partner.

Ken Norton

NAMI NH

- Mr. Norton stated that the majority of his testimony has been covered by others.
- He stated that he would support Senator Innis's amendment.
- Mr. Norton believes that this is an issue of local control and that school boards should determine what type of survey they want to use.

Neutral Information Presented:

Michele Merritt

New Futures

- Ms. Merritt explained that New Futures does not currently have an opinion in this legislation.
- She stressed the importance of the Youth Risk Behavior Survey.
- She requested, should the committee follow through with the legislation, that they use the full name of the Youth Risk Behavior Survey which is the Center for Disease Control's Youth Risk Behavior Surveillance Behavior System.

Future Action: Pending

KAB

Date Hearing Report completed: January 26, 2017