

HB 1431-FN-LOCAL - AS INTRODUCED

2022 SESSION

22-2285

07/10

HOUSE BILL ***1431-FN-LOCAL***

AN ACT establishing the parental bill of rights.

SPONSORS: Rep. Terry, Belk. 5; Rep. Greeson, Graf. 16; Rep. Potucek, Rock. 6; Rep. Littlefield, Belk. 3; Rep. Hough, Belk. 3; Rep. Alliegro, Graf. 7; Rep. Ankarberg, Straf. 10; Rep. Johnson, Belk. 3; Rep. Silber, Belk. 2; Rep. Blasek, Hills. 21; Sen. Giuda, Dist 2

COMMITTEE: Children and Family Law

ANALYSIS

This bill establishes a parental bill of rights, a framework for notice of, and to report violations of, such rights, and consequences for affirmative findings of violations.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1431-FN-LOCAL - AS INTRODUCED

- Page 2 -

1 (b) The right to direct the upbringing and the moral or religious training of his or her
2 minor child.

3 (c) The right to apply to enroll his or her minor child in a public school or, as an
4 alternative to public education, a private school, including a religious school, a home education
5 program, or other available options, as authorized by law.

6 (d) The right to access and review all school records relating to his or her minor child.

7 (e) The right to make health care decisions for his or her minor child, unless otherwise
8 prohibited by law.

9 (f) The right to access and review all medical records of his or her minor child, unless
10 prohibited by law or if the parent is the subject of an investigation of a crime committed against the
11 minor child and a law enforcement agency or official requests that the information not be released.

12 (g) The right to consent in writing before a biometric scan of his or her minor child is
13 made, shared, or stored.

14 (h) The right to consent in writing before any record of his or her minor child's blood or
15 deoxyribonucleic acid (DNA) is created, stored, or shared, except as required by general law or
16 authorized pursuant to a court order.

17 (i) The right to consent in writing before the state or any of its political subdivisions,
18 including, without limitation, any school board, school district, or school administrative unit, makes
19 a video or voice recording of his or her minor child unless such recording is made during or as part of
20 a court proceeding or is made as part of a forensic interview in a criminal or other investigation by
21 the bureau of child protective services or is to be used solely for the following purposes:

22 (1) A safety demonstration, including the maintenance of order and discipline in the
23 common areas of a school or on student transportation vehicles;

24 (2) A purpose related to a legitimate academic or extracurricular activity;

25 (3) A purpose related to regular classroom instructions;

26 (4) Security or surveillance of buildings or grounds; or

27 (5) A photo identification card.

28 (j) The right to be notified promptly if an employee of the state, any of its political
29 subdivisions, any other governmental entity, or any other institution suspects that a criminal offense
30 has been committed against his or her minor child, unless the incident has first been reported to law
31 enforcement or the bureau of child protective services and notifying the parent would impede the
32 investigation.

33 II. This section does not:

34 (a) Authorize a parent of a minor child in this state to engage in conduct that is unlawful
35 or to abuse or neglect his or her minor child in violation of general law;

36 (b) Condone, authorize, approve, or apply to a parental action or decision that would end
37 life;

1 (c) Prohibit a court of competent jurisdiction, law enforcement officer, or employees of a
2 government agency that is responsible for child welfare from acting in his or her official capacity
3 within the reasonable and prudent scope of his or her authority; or

4 (d) Prohibit a court of competent jurisdiction from issuing an order that is otherwise
5 permitted by law.

6 III. An employee of the state, any of its political subdivisions, including, without limitation,
7 any school board, school district, or school administrative unit, or any other governmental entity who
8 encourages or coerces, or attempts to encourage or coerce, a minor child to withhold information
9 from his or her parent may be subject to disciplinary action.

10 IV. A parent of a minor child in this state has inalienable rights that are more
11 comprehensive than those listed in this section, unless such rights have been legally waived or
12 terminated. This chapter does not prescribe all rights to a parent of a minor child in this state.
13 Unless required by law, the rights of a parent of a minor child in this state may not be limited or
14 denied. This chapter may not be construed to apply to a parental action or decision that would end
15 life.

16 169-I:5 School Board Notifications on Parental Rights.

17 I. Each school board, school district, or school administrative unit shall, in consultation with
18 parents, teachers, and administrators, develop, adopt and promulgate publicly a policy to promote
19 parental involvement in the public school system. Such policy must include:

20 (a) A plan for parental participation in schools to improve parent and teacher
21 cooperation in such areas as homework, school attendance, and discipline.

22 (b) A procedure for a parent to learn about his or her minor child's course of study,
23 including the source of any supplemental education materials.

24 (c) Procedures, for a parent to object to instructional materials and other materials used
25 in the classroom. Such objections may be based on beliefs regarding morality, sex, and religion or
26 the belief that such materials are harmful. For purposes of this section, the term "instructional
27 materials" shall include, without limitation, all materials used in the classroom, including
28 workbooks and worksheets, handouts, software, applications, and any digital media made available
29 to students.

30 (d) Procedures for a parent to withdraw his or her minor child from any portion of the
31 school district's health education program that relates to sex education or instruction in acquired
32 immune deficiency syndrome education or any instruction regarding sexuality if the parent provides
33 a written objection to his or her minor child's participation. Such procedures must provide for a
34 parent to be notified in advance of such course content so that he or she may withdraw his or her
35 minor child from those portions of the course.

1 (e) Procedures for a parent to learn about the nature and purpose of clubs and activities
2 offered at his or her minor child's school, including those that are extracurricular or part of the
3 school curriculum.

4 (f) Procedures for a parent to learn about parental rights and responsibilities under
5 general law, including all of the following:

6 (1) The right to opt his or her minor child out of any portion of the school district's
7 health education program that relates to sex education instruction in acquired immune deficiency
8 syndrome education or any instruction regarding sexuality.

9 (2) A plan to disseminate information about school choice options, including open
10 enrollment.

11 (3) The right of a parent to exempt his or her minor child from immunizations.

12 (4) The right of a parent to review statewide, standardized assessment results.

13 (5) The right of a parent to enroll his or her minor child in gifted or special education
14 programs if the child qualifies for such programs.

15 (6) The right of a parent to inspect school district instructional materials.

16 (7) The right of a parent to access information relating to the school district's policies
17 for promotion or retention, including high school graduation requirements.

18 (8) The right of a parent to receive a school report card and be informed of his or her
19 minor child's attendance requirements and compliance with such requirements.

20 (9) The right of a parent to access information relating to the state public education
21 system, state standards, report card requirements, attendance requirements, and instructional
22 materials requirements.

23 (10) The right of a parent to participate in parent-teacher associations and
24 organizations that are sanctioned by a school board or the Department of Education.

25 (11) The right of a parent to opt out of any district-level data collection relating to
26 his or her minor child not required by law.

27 II. A school board may provide the information required in this section electronically or post
28 such information on its website.

29 III. A parent may request, in writing, from the district school superintendent the
30 information required under this section. Within 10 days, the district school superintendent must
31 provide such information to the parent. If the district school superintendent denies a parent's
32 request for information or does not respond to the parent's request within 10 days, the parent may
33 appeal the denial to the school board. The school board must place a parent's appeal on the agenda
34 for its next public meeting. If it is too late for a parent's appeal to appear on the next agenda, the
35 appeal must be included on the agenda for the subsequent meeting. If a parent is dissatisfied with
36 the results of such an appeal, or such an appeal does not take place in a timely fashion as required
37 by this subsection, the aggrieved parent may appeal the matter in a superior court having

HB 1431-FN-LOCAL - AS INTRODUCED

- Page 5 -

1 jurisdiction over the applicable school district, which shall have jurisdiction to hear such appeal and
2 if it finds in favor of the parent, it may award to the parent his or her reasonable attorneys' fees and
3 court costs, including sch attorneys' fees and court costs on appeal to the state's supreme court.

4 169-I:6 Parental Consent for Health Care Services.

5 I. Except as otherwise provided by law, a health care practitioner or an individual employed
6 by such health care practitioner may not provide or solicit or arrange to provide health care services
7 or prescribe medicinal drugs to a minor child without first obtaining written parental consent.

8 II. Except as otherwise provided by law or a court order, a health care provider may not
9 allow a medical procedure to be performed on a minor child in its facility without first obtaining
10 written parental consent.

11 III. This section does not apply to services provided by a clinical laboratory, unless the
12 services are delivered through a direct encounter with the minor at the clinical laboratory facility.

13 IV. A health care practitioner or other person who violates this section is subject to
14 disciplinary action, and such a violation constitutes a class A misdemeanor.

15 169-I:7 Violations.

16 I. A violation of any provision of this chapter by an individual shall constitute a class A
17 misdemeanor.

18 II. Any parent claiming violation of any provisions of this chapter may bring an action for
19 injunctive relief and damages against the state or any of its political subdivisions, including, without
20 limitation, any school board, school district, or school administrative unit, any other governmental
21 entity, the parent claims has violated this chapter in the superior court having jurisdiction over the
22 relevant individual or the state or any of its political subdivisions, including, without limitation, any
23 school board, school district, or school administrative unit, any other governmental entity, and if the
24 court finds in favor of the parent, it may award to the parent his or her reasonable attorneys' fees
25 and court costs, including sch attorneys' fees and court costs on appeal to the state's supreme court.

26 3 Effective Date. This act shall take effect January 1, 2023.

**HB 1431-FN-LOCAL- FISCAL NOTE
 AS INTRODUCED**

AN ACT establishing the parental bill of rights.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill establishes a parental bill of rights, a framework for notice of, and to report violations of, such rights, and consequences for affirmative findings of violations.

The Judicial Branch indicates this bill provides that any violation by an individual shall constitute a class A misdemeanor. The bill also authorizes any parent to bring an action for injunctive relief and damages in superior court, and would authorize the court to award a parent fees and costs. The Branch assumes that, if this bill is enacted, there would be an increase in criminal complaints and civil petitions filed in Superior Court and an increase in the number of appeals taken to the Supreme Court. The Judicial Branch is unable to estimate the number of such new complaints and petitions, and the fiscal impact is therefore indeterminable.

AGENCIES CONTACTED:

Judicial Branch