

# HOUSE BILL REPORT

## HI 2081

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**As Passed House:**

March 4, 2024

**Title:** An act relating to establishing the parents' bill of rights.

**Brief Description:** Concerning parental rights relating to their children's public school education.

**Sponsors:** People of the State of Washington.

**Brief History:**

**Committee Activity:**

Education: 2/28/24, 3/1/24 [DP].

**Floor Activity:**

Passed House: 3/4/24, 82-15.

**Brief Summary of Initiative**

- Declares 15 rights that parents and guardians of public school children have, including rights to receive or be notified of academic, medical, safety, and law enforcement matters, rights to examine and inspect certain materials and records, and rights to opt their children out of certain activities.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** Do pass. Signed by 14 members: Representatives Santos, Chair; Shavers, Vice Chair; Rude, Ranking Minority Member; McEntire, Assistant Ranking Minority Member; Bergquist, Couture, Eslick, Harris, McClintock, Nance, Ortiz-Self, Steele, Stonier and Timmons.

**Minority Report:** Do not pass. Signed by 1 member: Representative Pollet.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Ethan Moreno (786-7386).

**Background:**

Public School Governance.

The governance of Washington's public school system is a shared responsibility between the state and 295 school districts. The Legislature and state agencies, including the Office of the Superintendent of Public Instruction and the State Board of Education, establish requirements for school districts, but the operation of school districts is the responsibility of locally elected school district boards of directors, often through adopted policies and procedures.

Washington's public school system also includes charter schools and state-tribal education compact schools. Charter schools and state-tribal education compact schools have separate laws for their governance and operation and are subject to requirements made applicable to them by the Legislature and state agencies.

The Washington State School Directors' Association (WSSDA) is a state agency that provides advice and assistance to school directors. Among other duties, the WSSDA develops model policies and procedures addressing a broad range of administrative and education issues that school district boards of directors may choose to adopt. Additionally, state law requires school districts to adopt certain WSSDA model policies and procedures.

Examples of issues addressed in WSSDA model policies and procedures include:

- making student records available in an orderly and timely manner to students and parents;
- course design and the selection and adoption of instructional materials;
- nondiscrimination; and
- responses to student injury or illness.

Parental Involvement and Notification.

State and federal laws establish numerous provisions for involving and notifying the parents and guardians of children enrolled in public schools. Examples of parental involvement and notification provisions in state law include:

- receiving notice that their child failed to attend school and the steps to be taken to reduce the child's absence;
- accessing their child's classroom and school sponsored activities to observe class procedures, teaching materials, and class conduct;
- requiring certain parental notifications and involvement regarding students' medical issues;
- receiving annual notifications about state required assessments and graduation requirements;
- being notified that their child is alleged to be the victim, target, or recipient of a reported allegation of sexual misconduct by a school employee;

- receiving, annually, a handbook that includes information about policies and complaint procedures related to discrimination, harassment, intimidation, and bullying; and
- receiving parental notice that the school will be providing comprehensive sexual health education during the school year and about the option to review the curriculum and opt their child out of the instruction.

#### Student Education Records—Privacy and Parental Access Rights.

Federal laws protect the privacy of children's education records in public schools and provide parental access to those records. State laws either follow or are more protective of children's privacy than federal laws.

The federal Family Educational Rights and Privacy Act (FERPA) gives parents the right to inspect and review the public school education records of their minor children within 45 days of requesting access to the records, unless a court order, state statute, or other legally binding document specifically revokes this right. If circumstances effectively prevent a parent from exercising this right, the school must either provide the parent with a copy of the requested records or make other arrangements for the parent to access the records.

The following documents, if directly related to a student and maintained by a school, generally constitute "education records" subject to FERPA: transcripts, course schedule, discipline files, and immunization records. Records kept in the sole possession of the maker, used only as a personal memory aid, and not accessible or revealed to any other person except a temporary substitute for the maker of the record, are not "education records."

Under state law, the parent or guardian of a student has the right to review all education records of the student, which are academic, attendance, and disciplinary records. Additionally, school district boards of directors must establish a procedure in conformity with FERPA for granting a request by a parent or guardian for access to the education records of his or her child, and prohibiting the release of student information without the written consent of the student's parent or guardian.

#### Protection of Pupil Rights Amendment.

The federal Protection of Pupil Rights Amendment (PPRA) requires public schools to notify parents, and offer the option to opt their children out, of administration of surveys, analyses, and evaluations that may reveal certain information of the child or parent, such as: political or religious beliefs, psychological problems, or sex attitudes. The PPRA also requires that certain instructional materials used in connection with the surveys, analysis, and evaluations be available for inspection by parents.

### **Summary of Initiative:**

#### Legislative Findings.

The Legislature finds that: parents are the primary stakeholders in their children's upbringing, parental involvement is a significant factor in increasing student achievement, and access to student information encourages greater parental involvement.

Declaration of 15 Parental Rights.

Parents and guardians of public school children younger than 18 years old have the right to:

1. examine the textbooks, curriculum, and supplemental material used in their child's classroom;
2. inspect their child's public school records and receive a copy of their child's records within 10 business days of submitting a written request. Parents and guardians must not be required to appear in person to request records. Any charges for paper records must be reasonable and set forth in the district's official policies and procedures, and no charges may be imposed for electronic records. Public school records subject to these rights include: academic records; medical or health records; mental health counseling records; vocational counseling records; discipline records; attendance records; records associated with screening for learning challenges, exceptionalities, or plans for an individualized education program or accommodations for a student's disability; and any other student-specific files, documents, or other materials that are maintained by the school;
3. receive prior notification when medical services are offered to their child, except where emergency medical treatment is required. In such cases, notification is required as soon as practicable after the treatment;
4. receive notification when a medical service or medications have been provided to their child that could result in a financial impact to the parent's or guardian's health insurance payments or copays;
5. receive notification when the school has arranged, directly or indirectly, for medical treatment that results in follow-up care beyond normal school hours, such as monitoring, medications, medical devices, and emotional care;
6. receive immediate notification if a criminal action is deemed to have been committed against their child or by their child;
7. receive immediate notification if law enforcement personnel question their child, except in cases where the parent or guardian has been accused of abusing or neglecting the child;
8. receive immediate notification if their child is taken or removed from the public school campus without parental permission, including to stay at a youth shelter or a private host home for youth in need of temporary placement;
9. receive assurance their child's public school will not discriminate against their child based upon the family's sincerely held religious beliefs;
10. receive written notice and have the option to opt their child out of student engagements that include questions about the child's sexual experiences or attractions; the family's beliefs, morality, religion, or political affiliations; mental health or psychological problems of the child or a family member; and surveys, analyses, and evaluations subject to areas covered by the Protection of Pupil Rights Amendment. Student engagements subject to this right include surveys, assignments,

- questionnaires, role-playing activities, and recordings of the child;
11. receive written notice and have the option to opt their child out of instruction on topics associated with sexual activity in accordance with comprehensive sexual health education provisions;
  12. receive the school calendar and any revisions to the calendar, which must be posted on the school's website;
  13. receive a list of any required fee and its purpose and use and how economic hardships may be addressed, either in writing or on the school's website;
  14. receive a description of the school's dress code or uniform either in writing or on the school's website; and
  15. be informed if their child's academic performance could threaten the ability to be promoted to the next grade level and to be offered an in-person meeting with the teacher and principal to discuss resources or strategies for academic improvement.

Prohibited Records Release—Parent Under Investigation for Certain Criminal Actions.

Public schools are not required to release a student's medical or health records or mental health counseling records to a parent who is under investigation for child abuse or neglect unless the parent has obtained a court order.

Definition of Public Schools.

"Public schools" is defined as including common schools (traditional public schools that are part of a school district), charter schools, and certain other schools having a curriculum below the college or university level.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The initiative takes effect 90 days after adjournment of the session in which the initiative is passed.

**Staff Summary of Public Testimony:**

(In support) Engaged parents raise healthy and happy kids. The point of the initiative is to engage parents and others in the upbringing of their children. There is some confusion about what rights parents have to engage with their children's education. This initiative seeks to clarify the issue and let parents know what they can expect, do, and know. If lawmakers do that more effectively, children will do well. The initiative does not change most law.

Parents have watched the Legislature enact laws eroding parental rights, including Senate Bill 5399 from last year. The initiative will put control with families, where it belongs. The initiative codifies the rights of parents to raise children without government interference and strengthens the rights of children. Please listen to the people and approve the initiative.

School board members have passed a belief statement in support of parents as important stakeholder in their children's education. It is important for school districts to listen to the concerns of students, families, staff, and communities. The initiative aligns with current law, but there is still confusion and misunderstanding about parents' rights. Senate materials explaining parental rights have been helpful in creating more understanding. If necessary, we hope the Legislature will make needed changes for implementation.

People need to build bridges of trust between parents and schools. This initiative seeks to strengthen parental knowledge, engagement, and inclusiveness. This initiative supports historically marginalized communities by giving them confidence to speak up on behalf of their children and family values. When students have supports from all sides, they will thrive in school, home environments, and in their futures.

Parents are the primary stakeholders in their children's upbringing. Access to student information promotes greater involvement and achievement. The initiative helps assure parents that their rights and responsibilities for their child's well-being does not end at the schoolhouse door.

When an adult tells a child that they will keep secrets from their parents, it is a red flag. The moral code is eroding. School staff have provided advice to students to evade parental knowledge. In some instances, parents' ability to provide support is denied by the omission of vital information about their child. This initiative will assure that parents are not denied their opportunity to parent holistically, while protecting school staff from ethical compromise.

The people have spoken through more than 400,000 signatures and they support parental rights. Parental rights are being infringed upon and parental preferences have been ignored. People need this law to reinforce the rights of parents. Parental rights are paramount. Please listen to the people and pass this initiative.

There is confusion between state law and what is happening in the classroom. Parents are not being allowed to opt out of a curriculum that runs against their beliefs and values. Parents are being told that because of state law, they cannot opt out certain programs. This initiative codifies that parents are the only decision makers in their child's life regarding upbringing and world views.

(Opposed) None.

(Other) Much of what is included in the initiative is already required under state and federal law, but some of the language is unclear and could lead to implementation challenges. Parents currently have access to student information. The initiative does not supersede federal law. School districts will need guidance in implementing sections of the initiative. The Office of the Superintendent of Public Instruction will need to work closely with the

Attorney General's Office and Department of Education to seek clarification on the initiative and may need future legislation to clarify matters.

Parents and families play a critical role in students' success. Families and schools need to work together to support students. Any parents' rights initiative must work to create safe and inclusive schools and must not cause unintended harm or exclusions. Some of the language may cause confusion and may conflict with existing statute. Stakeholders hope the Legislature will address implementation issues next session, if necessary.

Parents are a welcomed and crucial presence in schools. Some provisions in the initiative are addressed in state and federal laws. No state laws are repealed, but the language is vague, confusing, and duplicative. The language in the initiative is already causing LGBTQ students to feel anxious and targeted. If enacted, the Legislature should support schools, provide guidance resources, and monitor its implementation.

Schools welcome healthy involvement from families and appreciate active parents and guardians. The language of the initiative outlines what school leaders are already providing to families. The vagueness of some of the notifications will create challenges with real-time decisions, and implementation guidance will need to be developed. Concerns exist that schools will need to tell a student in crisis to pause while parents are notified, but schools will still be able to help students in real time and on site. Stakeholders will ask for clear guidance in addressing provisions that are vague and where implementation issues may arise. Stakeholders look forward to partnering with the Legislature and families to support students.

LGBTQ youth need a safe place to openly talk with others about topics related to their orientation. It is reassuring to hear from staff that the initiative does not change current law, because the Legislature has put in place a safety net to help LGBTQ youth, schools, and communities. If there are any weaknesses in that safety net, stakeholders hope the Legislature will take immediate action to preserve protections. Implementation guidance for the initiative is needed. This initiative cannot stand in the way of youth accessing life-saving and life-changing resources.

This initiative maintains Washington's existing protections for parents, educators, and young people. School boards and staff might not understand the protections in place and cause harm to young people. The language of the initiative is confusing and it is uncertain how it will be implemented. Implementation should be monitored to ensure that it is not implemented in an overly broad way, creating a chilling effect on youth during times of crisis.

This initiative may interfere with youths' abilities to connect with peer identity groups and services. The overly broad and vague language of the initiative may create a safety risk to youth. If youth do confide with school employees, the staff may be reluctant to refer youth to support services.

This initiative inserts schools into established processes and may lead to confusion for all involved regarding laws and protocols to follow. The initiative may unintentionally endanger survivors of abuse, neglect, and sexual assault with unclear language. The Legislature should take steps to ensure appropriate implementation and necessary amendments.

**Persons Testifying:** (In support) Dawn Land; Jennifer Heine-Withee, Family Policy Institute of Washington; Joy Gjersvold, Conservative Ladies of Washington; Representative Jim Walsh; Alesha Perkins; Tim Garchow, Washington State School Directors' Association; Melissa Petrini; and Jean Hill, Washington State Catholic Conference.

(Other) Angela Steck, Washington State Parent Teacher Association; Matt Schultz, Office of the Superintendent of Public Instruction; Tanya Fernandez, Planned Parenthood Great Northwest; Lisa Keating, Tacoma School Board; Matthew Wilson, Oasis Youth Center; Nasue Nishida, Washington Education Association; and Erin Lovell, Legal Counsel for Youth and Children.

**Persons Signed In To Testify But Not Testifying:** More than 20 persons signed in. Please see committee staff for information.