H-0618.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1601**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Graham, Corry, Sandlin, McEntire, Schmidt, Mosbrucker, Volz, Christian, Eslick, and McClintock

AN ACT Relating to parental rights; amending RCW 18.130.180; adding new sections to chapter 28A.150 RCW; adding a new chapter to Title 26 RCW; creating a new section; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature recognizes the crucial role parents play in Washington state and in society as a whole. The legislature finds that parents are the primary stakeholders in their child's upbringing. As such, the legislature intends to make clear the rights parents have in this state to raise and educate their children in accordance with their own values and beliefs. The legislature further finds that creating transparency regarding these rights provides a necessary reminder for parents and the state of their different roles in the lives of children and that the more information parents have, the better decisions they can make concerning the care and upbringing of their children.

NEW SECTION. **Sec.**  The state, any of its political subdivisions, or any other governmental entity may not infringe on the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of his or her minor child without demonstrating that such action is reasonable and necessary to achieve a compelling state interest and that such action is narrowly tailored and is not otherwise served by a less restrictive means.

NEW SECTION. **Sec.**  (1) All parental rights are reserved to the parents of a minor child in this state without obstruction or interference from the state, any of its political subdivisions, or any other governmental entity, including all of the following rights of a parent of a minor child in Washington state:

(a) The right to direct the education and care of his or her minor child.

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

(c) The right, pursuant to RCW 28A.225.010, to enroll his or her minor child in a public school or, as an alternative to public education, an approved private school, including a religious school, home-based instruction, or other available options as authorized by law.

(d) The right, pursuant to RCW 28A.605.030, to access and review all education records relating to his or her minor child.

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

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

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

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

(i) The right to consent in writing before the state or any of its political subdivisions makes a video or voice recording of his or her minor child, unless the recording is made during or as part of a court proceeding or is made as part of a forensic interview in a criminal investigation or the department of children, youth, and families investigation or is to be used solely for the following purposes:

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

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

(iii) A purpose related to regular classroom instructions;

(iv) Security or surveillance of buildings or grounds; or

(v) A photo identification card.

(j) The right to be notified promptly if an employee of the state, any of its political subdivisions, or any other governmental entity suspects that a criminal offense has been committed against his or her minor child, unless the incident has first been reported to law enforcement or the department of children, youth, and families and notifying the parent would impede the investigation.

(2) This section does not:

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

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

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

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

(3) An employee of the state, any of its political subdivisions, or any other governmental entity who encourages or coerces, or attempts to encourage or coerce, a minor child to withhold information from his or her parent may be subject to disciplinary action.

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

NEW SECTION. **Sec.**  (1) Each district school board of directors shall, in consultation with parents, teachers, and administrators, develop and adopt a policy to promote parental involvement in the public school system. Such policy must include:

(a) Delineated opportunities for parental participation, in accordance with RCW 28A.600.045 or other comparable practices in schools, to support students and improve parent and teacher cooperation in such areas as curriculum, homework, school attendance, and student conduct. Information provided in accordance with this subsection (a) must also include information about student supports for graduation and student learning plans required by RCW 28A.655.270;

(b) A policy for a parent to learn about his or her minor child's course of study, including the source of any supplemental education materials. The policy required by this subsection must also include information about the school district's policy for the selection and deletion of instructional materials and opportunities for parental participation in those processes as provided in RCW 28A.320.230;

(c) Policies, pursuant to RCW 28A.605.020, for parental access to their child's classroom, school sponsored activities, or both, for observing classroom procedures, teaching materials, and class conduct;

(d) Policies, pursuant to RCW 28A.320.230, for a parent to object to instructional materials and other materials used in the classroom. Such objections may be based on beliefs regarding morality, sex, and religion or the belief that such materials are harmful. For purposes of this section, "instructional materials" means materials used in the classroom, including workbooks and worksheets, handouts, software, applications, and any digital media made available to students;

(e) Procedures, pursuant to RCW 28A.300.475 or 28A.230.070, for a parent to withdraw his or her minor child from any portion of the school district's comprehensive sexual health education or instruction in acquired immune deficiency syndrome education if the parent provides a written objection to his or her minor child's participation. Such procedures must provide for a parent to be notified in advance of such course content;

(f) Procedures, pursuant to RCW 28A.600.010, ensuring parental access to written rules regarding student conduct, discipline, and rights, and procedures, pursuant to RCW 28A.320.211, providing for the annual dissemination and periodic review of discipline policies and procedures;

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

(h) Procedures for a parent to learn about parental rights and responsibilities under general law, including the following:

(i) A plan to disseminate information, pursuant to RCW 28A.225.300, about school district enrollment options, including school district of choice options established pursuant to RCW 28A.225.310;

(ii) In accordance with RCW 28A.210.090, the right of a parent to exempt his or her minor child from immunizations;

(iii) In accordance with RCW 28A.230.195 or 28A.300.320, the right of a parent to review statewide, standardized assessment results;

(iv) In accordance with RCW 28A.150.315, the opportunity for parents to excuse their children from the Washington kindergarten inventory of developing skills assessment;

(v) In accordance with chapters 28A.150 and 28A.155 RCW, the right of a parent to enroll his or her qualifying minor child in highly capable or special education programs;

(vi) Policies for parental review and inspection of school district instructional materials;

(vii) In accordance with RCW 28A.320.208, the right of a parent to receive information relating to assessments and high school graduation requirements, and, if applicable, student learning plans required by RCW 28A.655.270;

(viii) In accordance with RCW 28A.605.030, the right of a parent to review all education records of their child;

(ix) In accordance with RCW 28A.600.477, the right of a parent to be informed of the school district's policy and procedure prohibiting harassment, intimidation, and bullying, and in accordance with RCW 28A.600.480 and school district policy, the right of parents, students, and others to report incidents of harassment, intimidation, and bullying;

(x) The right of a parent to request a safety plan for his or her child to protect the child from harassment, intimidation, bullying, or other conditions that threaten the physical safety or well-being of the child; and

(xi) The right of a parent to contact law enforcement concerning alleged criminal offenses occurring on school premises.

(2) A district school board of directors may provide the information required in this section electronically or post such information on its website.

(3) A parent may request, in writing, from the school district superintendent the information required under this section. Within 10 days, the school district superintendent must provide the requested information to the parent. If the school district superintendent denies a parent's request for information or does not respond to the parent's request within 10 days, the parent may appeal the denial to the district school board of directors. The board of directors must place a parent's appeal on the agenda for its next public meeting. If it is too late for a parent's appeal to appear on the next agenda, the appeal must be included on the agenda for the subsequent meeting.

NEW SECTION. **Sec.**  (1) Except as otherwise provided by law or by a court order, a health care provider may not provide or solicit, or arrange to provide health care services or prescribe medicinal drugs to a minor child without first obtaining written informed consent from the parent of the minor child.

(2) This section does not apply to:

(a) The provision of required emergency medical care services in circumstances where obtaining parental consent is not practicable;

(b) Services provided by a clinical laboratory, unless the services are delivered through a direct encounter with the minor at the clinical laboratory facility.

(3) A health care provider who violates this section is subject to disciplinary action pursuant RCW 18.130.185 and commits a misdemeanor offense, punishable under chapter 9A.20 RCW.

NEW SECTION. **Sec.**  The following definitions apply throughout this chapter unless the context clearly requires otherwise.

(a) "Health care provider" has the same meaning as in RCW 7.70.020.

(b) "Parent" means a parent, guardian, or other person having legal custody of a child.

**Sec.**  RCW 18.130.180 and 2021 c 157 s 7 are each amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) ((~~Except when authorized by RCW 18.130.345, the~~)) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW or a pattern of violations of RCW 41.05.700(8), 48.43.735(8), 48.49.020, 48.49.030, 71.24.335(8), or 74.09.325(8);

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards;

(26) Violation of RCW 18.130.420;

(27) Performing conversion therapy on a patient under age eighteen;

(28) Violation of RCW 18.130.430; or

(29) Violation of section 5 of this act.

NEW SECTION. **Sec.**  Sections 2 and 3 of this act constitute a new chapter in Title 26 RCW.

NEW SECTION. **Sec.**  Sections 4 through 6 of this act are each added to chapter 28A.150 RCW.

**--- END ---**