
SENATE BILL 5653

State of Washington

68th Legislature

2023 Regular Session

By Senator Fortunato

1 AN ACT Relating to protecting the childhood of children; adding a
2 new section to chapter 28A.320 RCW; adding a new chapter to Title 26
3 RCW; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
6 childhood protection act.

7 NEW SECTION. **Sec. 2.** (1) The legislature finds that important
8 information relating to a child should not be withheld, either
9 inadvertently or purposefully, from his or her parent, including
10 information relating to the child's health, well-being, and
11 education, while the child is in the custody of the school district.
12 The legislature further finds it is necessary to establish a
13 consistent mechanism for parents to be notified of information
14 relating to the health and well-being of their children and that it
15 is a fundamental right of parents to direct the upbringing,
16 education, and care of their children, and for children to be
17 protected by their parents.

18 (2) For purposes of this chapter, the term "parent" means a
19 person who has legal custody of a minor child as a natural or
20 adoptive parent or a legal guardian.

1 NEW SECTION. **Sec. 3.** The state, any of its political
2 subdivisions, any other governmental entity, or any other institution
3 may not infringe on the fundamental right of a minor child to have
4 his or her parent direct the child's upbringing, education, health
5 care, and mental health without demonstrating that such action is
6 reasonable and necessary to achieve a compelling state interest and
7 that such action is narrowly tailored and is not otherwise served by
8 a less restrictive means.

9 NEW SECTION. **Sec. 4.** (1) The fundamental rights of a minor
10 child to be protected by his or her parent are reserved to the minor
11 child without obstruction or interference from the state, any of its
12 political subdivisions, any other governmental entity, or any other
13 institution including, but not limited to, all of the following
14 rights in this state:

15 (a) The minor child's right to have his or her parent direct the
16 education and care of his or her minor child;

17 (b) The minor child's right to have his or her parent direct the
18 upbringing and the moral or religious training of the minor child;

19 (c) The minor child's right to have his or her parent enroll his
20 or her child in a public school or, as an alternative to public
21 education, a private school, religious school, a home education
22 program, or other available options;

23 (d) The minor child's right to have his or her parent access and
24 review all school records relating to the minor child, pursuant to
25 RCW 28A.605.030;

26 (e) The minor child's right to have his or her parent make health
27 care decisions for his or her minor child, unless otherwise
28 prohibited by law;

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

34 (g) The minor child's right to have his or her parent consent in
35 writing before a biometric scan of the minor child is made, shared,
36 or stored;

37 (h) The minor child's right to have his or her parent consent in
38 writing before any record of his or her minor child's blood or

1 deoxyribonucleic acid (DNA) is created, stored, or shared, except as
2 required by law or authorized pursuant to a court order;

3 (i) The minor child's right to have his or her parent consent in
4 writing before the state or any of its political subdivisions makes a
5 video or voice recording of his or her minor child unless such
6 recording is made during or as part of a court proceeding, is made by
7 law enforcement or during a law enforcement investigation, is made as
8 part of a forensic interview in a criminal or department of children,
9 youth, and families investigation, or to be used solely for the
10 following purposes:

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

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

16 (iii) A purpose related to regular classroom instructions;

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

18 (v) A photo identification card;

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

26 (2) This section does not:

27 (a) Authorize a parent of a minor child in this state to engage
28 in conduct that is unlawful or to abuse or neglect his or her minor
29 child in violation of law or the child's right to be protected by
30 their parent;

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

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

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

39 (3) An employee of the state, any of its political subdivisions,
40 or any other governmental entity who encourages or coerces, or

1 attempts to encourage or coerce, a minor child to withhold
2 information from his or her parent may be subject to disciplinary
3 action. This subsection does not apply to law enforcement personnel
4 and the department of children, youth, and families personnel acting
5 within their official capacities.

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

14 NEW SECTION.

Sec. 5.

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

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

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

24 (c) Procedures for a parent to object to classroom materials and
25 activities and a process for withdrawing his or her student from the
26 activity, class, or program in which such materials or activities are
27 used. Such objections may be based on beliefs regarding morality,
28 sex, and religion or the belief that such materials or activities are
29 harmful;

30 (d) Procedures, pursuant to RCW 28A.300.475, for a parent to
31 withdraw his or her student from any portion of the school district's
32 comprehensive health education that relates to sex education or
33 instruction in acquired immunodeficiency syndrome education or any
34 instruction regarding sexuality if the parent provides a written
35 objection to his or her child's participation. Such procedures must
36 provide for a parent to be notified in advance of such course content
37 so that he or she may withdraw his or her student from those portions
38 of the course;

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

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

7 (i) Pursuant to RCW 28A.300.475, the right to opt his or her
8 minor child out of any portion of the school district's comprehensive
9 health education that relates to sex education instruction in
10 acquired immunodeficiency syndrome education or any instruction
11 regarding sexuality;

12 (ii) A plan to disseminate information about school choice
13 options, including open enrollment;

14 (iii) In accordance with RCW 28A.210.090, the right of a minor
15 child to have his or her parent exempt the student from
16 immunizations;

17 (iv) The right of a minor child to have his or her parent review
18 statewide, standardized assessment results;

19 (v) The right of a minor child to have his or her parent enroll
20 the student in gifted or special education programs;

21 (vi) The right of a minor child to have his or her parent inspect
22 school district instructional materials;

23 (vii) The right of a minor child to have his or her parent access
24 information relating to the school district's policies for promotion
25 or retention, including high school graduation requirements;

26 (viii) The right of a minor child to have his or her parent
27 receive a school report card and be informed of his or her child's
28 attendance requirements;

29 (ix) The right of a minor child to have his or her parent access
30 information relating to the state public education system, state
31 standards, report card requirements, attendance requirements, and
32 instructional materials requirements;

33 (x) The right of a minor child to have his or her parent
34 participate in parent teacher associations and organizations that are
35 sanctioned by a district school board or the department of education;

36 (xi) The right of a minor child to have his or her parent opt out
37 of any district-level data collection relating to his or her minor
38 child not required by law.

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

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

14 NEW SECTION. **Sec. 6.** (1)(a) Except as otherwise provided by
15 law, a health care provider may not provide or solicit or arrange to
16 provide health care services or prescribe medicinal drugs to a minor
17 child, in violation of the minor child's right to have his or her
18 parent make health care decisions for his or her minor child, without
19 first obtaining written parental consent.

20 (b) Except as otherwise provided by law, a person or an
21 individual employed by such person may not provide or solicit or
22 arrange to provide health care services or prescribe medicinal drugs
23 to a minor child, in violation of the minor child's right to have his
24 or her parent make health care decisions for his or her minor child,
25 without first obtaining written parental consent.

26 (2) Except as otherwise provided by law or a court order, a
27 health care provider may not allow a medical procedure to be
28 performed on a minor child in its facility, in violation of the minor
29 child's right to have his or her parent make health care decisions
30 for his or her minor child, without first obtaining written parental
31 consent.

32 (3) This section does not apply to an abortion, which is governed
33 under chapter 9.02 RCW.

34 (4) A health care provider or other person who violates this
35 section is subject to disciplinary action pursuant to chapter 18.130
36 RCW including imposition of civil penalties, and commits a gross
37 misdemeanor.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.320

2 RCW to read as follows:

3 (1) School districts must adopt a policy and procedure for
4 notifying a student's parent if there is a change in the student's
5 services or monitoring related to the student's mental, emotional, or
6 physical health or well-being and the school's ability to provide a
7 safe and supportive learning environment for the student. The policy
8 and procedure must reinforce the fundamental right of a minor child
9 to have his or her parents make decisions regarding the upbringing
10 and control of their children by requiring school district staff to
11 encourage a student to discuss issues relating to his or her well-
12 being with his or her parent or to facilitate discussion of the issue
13 with the parent. The policy and procedure may not prohibit parents
14 from accessing any of their student's education records created,
15 maintained, or used by the school district, as required by RCW
16 28A.605.030 and any of their student's health records created,
17 maintained, or used by the school district.

18 (2) A school district may not adopt a policy or procedure that
19 prohibits school district staff from notifying a parent about his or
20 her student's mental, emotional, or physical health or well-being, or
21 a change in related services or monitoring, or that encourage or have
22 the effect of encouraging a student to withhold from a parent such
23 information. School district staff may not discourage or prohibit
24 parental notification of and involvement in critical decisions
25 affecting a student's mental, emotional, or physical health or well-
26 being. This subsection does not prohibit a school district from
27 adopting a policy or procedure that permits school district staff to
28 withhold such information from a parent if a reasonably prudent
29 person would believe that disclosure would result in abuse,
30 abandonment, or neglect, as those terms are defined in RCW 13.34.030
31 and 26.44.020.

32 (3) Classroom instruction by school district staff or third
33 parties on sexual orientation including gender expression or identity
34 may not occur in kindergarten through third grade or in a manner that
35 is not age appropriate or developmentally appropriate for students in
36 accordance with state learning standards.

37 (4) At the beginning of the school year, each school district
38 must notify parents of each health care service offered at their
39 student's school and the option to withhold consent or decline any
40 specific service unless parental consent is not required by law.

1 Parental consent to a health care service does not waive the right of
2 a minor child to have his or her parent access his or her child's
3 educational or health records or to be notified about a change in his
4 or her child's services or monitoring as provided by this section.

5 (5) Before administering a questionnaire, screening form, or
6 diagnostic assessment related to student well-being or health to a
7 student in kindergarten through third grade, the school district must
8 provide the questionnaire, screening form, or diagnostic assessment
9 to the parent and obtain the permission of the parent.

10 (6) Each school district shall adopt a policy and procedure for a
11 parent to notify the principal, or his or her designee, regarding
12 concerns under this section at his or her student's school and the
13 process for resolving those concerns within seven calendar days after
14 notification by the parent.

15 (a) At a minimum, the policy and procedure must require that
16 within 30 days after notification by the parent that the concern
17 remains unresolved, the school district must either resolve the
18 concern or provide a statement of the reasons for not resolving the
19 concern.

20 (b) If a concern is not resolved by the school district, a parent
21 may:

22 (i) Request the superintendent of public instruction to appoint a
23 special magistrate who is a member of the Washington state bar
24 association in good standing and who has at least five years'
25 experience in administrative law. The special magistrate must
26 determine facts relating to the dispute over the school district
27 policy, procedure, or practice, consider information provided by the
28 school district, and render a recommended decision for resolution to
29 the state board of education within 30 days after receipt of the
30 request by the parent. The state board of education must approve or
31 reject the recommended decision at its next regularly scheduled
32 meeting that is more than seven calendar days and no more than 30
33 days after the date the recommended decision is transmitted. The
34 costs of the special magistrate must be borne by the school district.
35 The state board of education must adopt rules, including forms,
36 necessary to implement this subsection; or

37 (ii) Bring an action against the school district to obtain a
38 declaratory judgment that the school district policy, procedure, or
39 practice violates this section and seek injunctive relief. A court

1 may award damages and must award reasonable attorney fees and court
2 costs to a parent who receives declaratory or injunctive relief.

3 (c) Each school district must adopt a policy and procedure to
4 notify parents of the procedures required under this subsection.

5 (d) Nothing contained in this subsection shall be construed to
6 abridge or alter rights of action or remedies in equity already
7 existing under the common law or general law.

8 (7) This section governs school operation and management under
9 RCW 28A.710.040 and 28A.715.020 and applies to charter schools
10 established under chapter 28A.710 RCW and state-tribal education
11 compact schools established under chapter 28A.715 RCW.

12 (8) For the purposes of this section:

13 (a) "Parent" includes a legal guardian.

14 (b) "School district staff" means persons employed by a school
15 district, charter school, state-tribal education compact school, or
16 educational service district including, but not limited to, all
17 certificated and classified staff.

18 NEW SECTION. **Sec. 8.** By June 30, 2025, the Washington
19 professional educator standards board must review and update, as
20 necessary, the cultural competency, diversity, equity, and inclusion
21 standards of practice for preparation, continuing education, and
22 other training of school district staff established in RCW
23 28A.410.260 and any other relevant standards and competencies in
24 accordance with the requirements of this act.

25 NEW SECTION. **Sec. 9.** Sections 1 through 6 of this act
26 constitute a new chapter in Title 26 RCW.

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