

SENATE BILL REPORT

ESSB 5181

As Passed Senate, February 5, 2025

Title: An act relating to amending the parents rights initiative to bring it into alignment with existing law.

Brief Description: Amending the parents rights initiative to bring it into alignment with existing law.

Sponsors: Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Wilson, C., Pedersen, Dhingra, Frame, Liias, Lovick, Nobles, Stanford, Trudeau and Wellman).

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/21/25, 1/23/25 [DPS, DNP].

Floor Activity: Passed Senate: 2/5/25, 30-19.

Brief Summary of Engrossed First Substitute Bill

- Modifies certain rights of parents and guardians of children enrolled in public school.
- Removes rights related to notification requirements regarding medical services and treatment.
- Lists ten additional rights of parents and guardians and includes cross references to existing state law for each.
- Adds that these rights do not create a private right of action.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5181 be substituted therefor, and the substitute bill do pass.

Signed by Senators Wellman, Chair; Nobles, Vice Chair, K-12; Wilson, C., Vice

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.

Chair, Early Learning; Cortes, Hansen and Krishnadasan.

Minority Report: Do not pass.

Signed by Senators Harris, Ranking Member; Dozier and McCune.

Staff: Ailey Kato (786-7434)

Background: In 2024, an initiative to the Legislature was enacted that declared 15 rights of parents and legal guardians (parents) of children enrolled in public school. These rights include rights to receive or be notified of academic, medical, safety, and law enforcement matters, rights to access certain materials and records, and rights to opt their children out of certain activities.

Records. Parents have a right to inspect their child's public school records and to receive a copy of their child's records within ten business days of submitting a written request, either electronically or on paper. Parents must not be required to appear in person to request or validate a request for their child's public school records. Public school records is a defined term that includes records related to academics, medical or health, mental health counseling, vocational counseling, discipline, attendance, screenings, and any other student-specific files, documents, or other materials maintained by the public school.

A public school must not be required to release any records or information regarding a student's medical, health, or mental health counseling records to a parent during the pendency of an investigation of child abuse or neglect when the parent is the target of the investigation, unless the parent has obtained a court order.

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 requested records.

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

Medical Services and Treatment. Parents have a right to receive prior notification when medical services are being offered to their child, except where emergency medical treatment is required. In cases where emergency medical treatment is required, the parent must be notified as soon as practicable after the treatment is rendered.

Parents have a right to receive notification when any medical service or medications have been provided to their child that could result in any financial impact to the parent's health insurance payments or copays.

Parents have a right to receive notification when the school has arranged directly or indirectly for medical treatment that results in follow-up care beyond normal school hours. Follow-up care includes monitoring the child for aches and pains, medications, medical devices such as crutches, and emotional care needed for the healing process.

Removal from Campus. Parents have a right to 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 host home.

Under state law, there is a general requirement that licensed overnight youth shelters, homeless service providers, and host homes notify parents within 72 hours of a child's entry. If there are compelling reasons not to notify the parent, the shelter or organization must notify the Department of Children, Youth, and Families instead of the parent.

State law allows law enforcement and child protective services to take a child into custody without a court order during child abuse or neglect investigations, but must leave a written statement with a parent or in the residence of the parent.

Nondiscrimination. Parents have a right to receive assurance their child's public school will not discriminate against their child based upon the sincerely held religious beliefs of the child's family.

State law prohibits discrimination in Washington public schools on the basis of race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation including gender expression or identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability.

Notice of Opt Out. Parents have a right to receive written notice and the choice to opt their child out of any surveys, assignments, questionnaires, role-play activities, recordings of their child, or other student engagements that include questions about any of the following:

- the child's sexual experiences or attractions;
- the child's family beliefs, morality, religion, or political affiliations;
- any mental health or psychological problems of the child or a family member; and
- all surveys, analyses, and evaluations subject to areas covered by the Protection of Pupil Rights Amendment (PPRA) .

The federal PPRA requires public schools to notify parents and offer the option to opt their children out of administration of survey, analysis, or evaluation that reveals information

concerning:

- political affiliations;
- mental and psychological problems potentially embarrassing to the student or the student's family;
- sex behavior and attitudes;
- illegal, anti-social, self-incriminating, and demeaning behavior;
- critical appraisals of other individuals with whom the student has close family relationships;
- legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or
- income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under a program.

Guidance and Technical Assistance. The 2024 supplemental operating budget directed the Office of the Superintendent of Public Instruction (OSPI) to develop guidance and provide technical assistance to school districts to implement the parental rights initiative and to develop a tool and identify a process for community members to send questions and concerns. OSPI must submit monthly reports to the Legislature that include status updates on implementation. According to OSPI, this guidance may change due to ongoing litigation related to records.

Summary of Engrossed First Substitute Bill: Access to Materials. The right to access materials is revised to cross-reference existing state law and adds language aligning with state law.

Records. The term public school record is changed to education record. Parents have a right to inspect and review, and request and receive their child's education records within a reasonable period of time but not more than 45 days, instead of ten days, in accordance with FERPA.

Parents choosing to inspect and review their child's education records may not be required to appear in person to make the request, provided that the public school can ascertain the identity of the requestor.

No charge may be imposed to inspect or review education records or for the costs of searching for or retrieving the education records. Any charges for copies must be reasonable and not prevent a parent, legal guardian, or eligible child from exercising the right to inspect and review the education records. References to electronic records are removed.

Education records are defined as those official records, files, and data directly related to a student and maintained by the public school including, but not limited to, records encompassing all the material kept in the child's cumulative folder, such as general identifying data, records of attendance and of academic work completed; records of achievement and results of evaluative tests; disciplinary status; test protocols; and

individualized education programs.

Education records do not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record. Nothing changes the access and disclosure provisions established in state law related to health care information.

The types of documents not required to be released when a parent is being investigated for child abuse or neglect is expanded to include social work and disciplinary records. This provision is also expanded to include when a parent or legal guardian is the defendant in a criminal proceeding where the student is the named victim.

Medical Services and Treatment. The rights related to notification of medical services and treatment are removed.

Criminal Action and Law Enforcement. The right to receive immediate notification that a criminal action has been committed against their child specifies that the action is on school property during the school day and includes immediate notification if there has been a shooting on school property, or their child has been detained based on probable cause of involvement in criminal activity.

The right to receive immediate notification that law enforcement personnel questions their child specifies that the questioning is during a custodial interrogation at the school during the school day.

Removal from Campus. The right related to notification if their child is taken or removed from the public school campus is revised. Parents have the right to not have their child removed from school grounds or buildings during school hours without authorization of the parent according to state law. Nothing affects the provisions in state law related to host homes, youth shelters, and children being taken into custody related to abuse or neglect allegations.

Nondiscrimination. The right to receive assurance that their child's public school will not discriminate against their child based on sincerely held religious beliefs is revised. Parents have the right to have their children receive a public education in a setting in which discrimination on the basis of any of the protected classes under state law is prohibited.

Notice of Opt Out. The types of activities that the right to receive notice and the option to opt out of are revised and align with the PPRA. A reference to comprehensive sexual health education is added.

School Calendar. The right related to the annual school calendar specifies that it must include any known events that require parent or student attendance outside of normal school days or hours.

Required Fees. The right to receive in writing a comprehensive listing of any required fee specifies that it must include a description of how economic hardships may be considered in the administration of fees.

Academic Performance. The right to be informed of their child's academic performance is revised to add cross references to existing state law.

Additional Rights. The following rights are added and include cross references to existing state law for each:

- to file a complaint on behalf of their child relating to harassment, intimidation, and bullying;
- to have their child qualify for enrollment in a school district if they are transferred to, or pending transfer to, a military installation within the state;
- to have their child qualify without a legal residence for enrollment in a school district;
- to have their child whose primary language is not English access supplemental instruction and services through the transitional bilingual instruction program;
- to receive annual notice of the public school's language access policies and services, the parents' rights to free language access services and the contact information for any language access services;
- to request enrollment for their child in a nonresident school district;
- to be notified of unexcused absences and to engage in efforts to eliminate or reduce their child's absences;
- to request information about special education programs and assistance for their child if their child is eligible for but not receiving special education services, including due to illness;
- to request an appeal to the Superintendent of Public Instruction if their child with disabilities has been denied the opportunity of a special education program by a school district or public school; and
- to access special education due process hearings regarding their child.

Liability. These rights do not create a private right of action.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill amends the parental rights initiative to align it with current state and federal law. This is a clean up and a best

practices bill not an overhaul. Some of the provisions were causing confusion for school districts, and this bill eliminates ambiguity and provides clarity and addresses the provisions that were enjoined by the court. These changes protect scholars' rights. All schools must be a welcoming and safe space for all students while also involving families. Families are critical partners in students' education, and teachers look for ways to engage parents. School districts have said there is confusion about the definition of education records, and the timeline to respond to record requests and notifications about medical care that conflict with existing provisions about student privacy. This bill clarifies and affirms a minors' right to consent to certain health care services, including mental health and reproductive health care, without parental notification. LGBTQ students are victims of sexual violence at higher rates, and this sexual violence can be perpetrated by family members and sometimes parents. Abusive parents may request records from schools to undermine student's reporting efforts. Timelines for certain notifications should be shortened. This bill will protect transgender students by respecting their confidentiality, which can be life-saving. Ensuring student privacy will create school environments where students can report safety concerns.

CON: Schools may act in loco parentis when students are in their custody, but nothing gives schools the right to be superior to a student's actual parents. Parents have a fundamental right to know what is happening in their kid's lives. Parents do not give up this right when their kid is at school. The voters of this state want parents to take priority over the government. Schools have no role to play in nonemergency medical decisions, and any involvement by schools is a major intrusion into the family and oversteps the state's role. This bill undermines the trust between schools and families. Parents are the tax payers and primary advocates and stakeholders for their children, and they should have full oversight over their medical decisions. This bill disrespects parents by delaying access to important information. If schools do not notify parents, students may be harmed by a misdiagnosis and not getting a second opinion. This bill takes away rights from parents that allow them to protect their children.

Persons Testifying: PRO: Senator Claire Wilson, Prime Sponsor; Danni Askini, Gender Justice League; Jenny Plaja, Office of Superintendent of Public Instruction (OSPI); Natalya Yudkovsky, Washington State PTA; Andrew Villeneuve, Northwest Progressive Institute; Nicole Kern, Planned Parenthood Alliance Advocates; Nasue Nishida, Washington Education Association; Elizabeth Hendren, Sexual Violence Law Center.

CON: Tonya Hickman, Lynden School Board; Eyman Tim, initiative Activist; Autumn Meadows; Jean Hill, Washington State Catholic Conference; Ronda Litzenberger, Eatonville School Board; Latasha Mae.

Persons Signed In To Testify But Not Testifying: PRO: Linden Jordan, PFLAG Skagit; Felicia Walker; Amy Cannava, Washington State Association of School Psychologists; Taylor Farley, Queer Power Alliance; Jocelyn Richey; Katelyn Abston; Rebekah Gardea, QLaw Foundation of Washington ; Emily Carmichael; Carrie Suchy, NCSP, Washington

State Association of School Psychologists; Roxana Gomez, Legal Counsel for Youth and Children; Sarah Hurlburt; Megan Roseman.

CON: Gabriel Jacobs; Jennifer Heine-Withee; Khushdip Brar, School Board Director; Laurie Layne; Christian Nelson; Austin Boswell; Dawn Land, Reject 5599 PAC; Sarah Garriott; Eric Lundberg; Brian Anderson; Theresa Schrempp; Alan Nolan, Mead School District; Dakota Manley, Washington State Young Republicans; Bob Runnells, Informed Choice Washington; Darryl Jones.

OTHER: Eric Pratt, America.