

SENATE BILL REPORT

SI 2081

As Passed Senate, March 4, 2024

Title: An act concerning parental rights relating to their children's public school education.

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

Sponsors: People of the State of Washington.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/28/24, 3/01/24 [DP].

Floor Activity: Passed Senate: 3/4/24, 49-0.

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 access certain materials and records; and rights to opt their children out of certain activities.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass.

Signed by Senators Wellman, Chair; Wilson, C., Vice Chair; Hawkins, Ranking Member; Dozier, Hunt, McCune, Mullet and Pedersen.

Staff: Ailey Kato (786-7434)

Background: Initiative Process. Article II, Section 1, of the Washington State Constitution authorizes the initiative process, allowing the people to place a proposition on the ballot or to submit the proposed law to the Legislature. If an initiative to the Legislature is certified, the Legislature must take one of the following three actions:

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- adopt the initiative as proposed, in which case it becomes law without a vote of the people;
- reject or take no action on the measure, under either case it automatically will appear on the ballot in the next general election; or
- propose an alternative measure, in which case the initiative and alternative will both appear on the ballot as competing measures at the next state general election.

Public Schools. Public school means the common schools as referred to in Article IX of the state Constitution, charter schools, and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense.

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

- 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 student's medical issues;
- receiving notification that their child is alleged to be the victim, target, or recipient of a reported allegation of sexual misconduct by a school employee;
- requiring parental authorization when a child is removed from school grounds during school hours in accordance with school policy;
- receiving, annually, a handbook that includes information about policies and complaint procedures related to discrimination, harassment, intimidation, and bullying;
- receiving notification 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;
- receiving notification of what clothing and apparel is considered to be gang-related if there is a policy prohibiting this apparel; and
- receiving annual notifications about state required assessments and graduation requirements.

School District Model Policies and Procedures. The Washington State School Directors' Association (WSSDA) is a state agency that provides advice and assistance to school directors and also 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;
- responses to student injury or illness; and
- school calendars.

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 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.

The following documents, if directly related to a student and maintained by a school, would 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 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.

Summary of Initiative: 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.

Fifteen rights are provided for parents and legal guardians of public school children younger than 18 years old in a number of categories. Public schools has the same meaning that is in existing state law.

Access to Materials. Parents have a right to examine the textbooks, curriculum, and supplemental material used in their child's classroom.

Public School 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.

No charge may be imposed on a parent to receive such records electronically. Any charges for a paper copy must be reasonable and set forth in the official policies and procedures of the school district.

Public school records include all of the following:

- academic records including test and assessment scores;
- medical or health records;
- records of any mental health counseling;
- records of any vocational counseling;
- records of discipline including expulsions and suspensions;
- records of attendance including unexcused absences;
- records associated with a child's screening for learning challenges, exceptionalities, plans for an Individualized Education Program (IEP), or plan section 504 plan; and
- any other student-specific files, documents, or other materials that are maintained by the public school.

Notwithstanding anything to the contrary, a public school must not be required to release any records or information regarding a student's medical or health records or mental health counseling records to a parent during the pendency of an investigation of child abuse or neglect conducted by any law enforcement agency or the Department of Children, Youth, and Families when the parent is the target of the investigation, unless the parent has obtained a court order.

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.

Criminal Action and Law Enforcement. Parents have a right to receive immediate notification if a criminal action is deemed to have been committed against their child or by their child.

Parents have a right to receive immediate notification if law enforcement personnel question their child, except in cases where the parent or legal guardian has been accused of abusing or neglecting the child.

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.

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.

Notice of Opt Out. Parents have a right to receive written notice and the option 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 PPRA.

Parents have a right to 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.

School Calendar. Parents have a right to receive from the public school the annual school calendar, no later than 30 days prior to the beginning of the school year, and to be notified in writing as soon as feasible of any revisions to such calendar. Such calendar must be posted to the public school's website and must include, at a minimum, student attendance days and any event that requires parent or student attendance outside of normal school days or hours.

Required Fees. Parents have a right to receive in writing each year or to view on the public school's website a comprehensive listing of any required fee and its purpose and use and a description of how economic hardships may be addressed.

Dress Code or Uniform. Parents have a right to receive in writing each year or to view on the school's website a description of the school's required dress code or uniform, if applicable, for students.

Academic Performance. Parents have a right to be informed if their child's academic performance, including whether their child is provided a student learning plan, is such that it could threaten the child's ability to be promoted to the next grade level, and to be offered an in-person meeting with the child's classroom teacher and principal to discuss any resources or strategies available to support and encourage the child's academic improvement.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Families are always a child's first teacher. Engaged parents raise happy and healthy kids. Studies show that when parents are involved and engaged, there is a significant impact on academic success and wellness. Schools should reduce barriers to parent and family participation to improve connection, collaboration, and transparency. It is important to listen to the concerns of students, families, and staff. It is also important to differentiate between what is actually occurring in schools and misperceptions arising from social media. This initiative will help build trust between schools and communities, which is especially important given the increasing mental health issues of students. The point of this initiative is to engage parents, grandparents, and legal guardians in the upbringing of their children. Parents are confused about what rights they have related to the education and care of their children. This initiative seeks to clarify those rights and informs parents in plain and straightforward terms what they can expect and know about their children. It can be difficult to know where these rights exist in state law. This initiative enumerates rights in one location, which assures parents of their rights and responsibilities and that these rights do not stop at the schoolhouse door. This initiative has been drafted carefully, so that it synchronizes well with existing law and does not change most existing law. If the implementation of any elements are difficult to do uniformly or have unintended consequences for the students involved, there should be an opportunity to correct those issues. The Legislature has recently enacted laws eroding parents' rights, which endangers children. This initiative makes sure parents can raise their children without governmental interference and that

secrets are not kept from parents. There have been examples when teachers are talking about sexuality and pronouns, and parents are not given the opportunity to opt their children out of this curriculum even when it goes against their religious and personal beliefs and family core values. This initiative is needed to make it clear that parents are the one and only decision-maker in their child's upbringing. Children deserve to be protected by parents who know them best and love them. Parents need to have access to information to support their own children, and this initiative promotes equitable access to this information. This is not a partisan issue. The people have spoken, and they want parental rights.

OTHER: Parents play a critical role in their child's academic success and whole-child development. Any parental rights legislation must help ensure safe, supportive, and inclusive learning environments and do not cause any disproportionate harm for certain student groups, especially LGBTQ+ students, students with disabilities, students in foster care, students facing housing instability, or other historically marginalized groups. This initiative may interfere with young people's ability to connect with peer identity groups and critical services. School staff may be reluctant to refer students to these services. LGBTQ youth need a safe place to openly talk about their orientation, and there are state laws that protect this. The Legislature needs to take quick action if there are issues with existing state law and the initiative. Much of what is included in this initiative is already required by state and federal law and describes what schools are already doing. However, some of the language is unclear, duplicative, and could lead to confusion and implementation challenges. Some of the initiative language may conflict with current state law. Additional clarification from the Legislature may be needed. For example, this initiative applies to children under 18 while some existing state law applies to children 13 and older. There are also references to certain notifications, which raise questions about how that interacts with existing law. The initiative inserts schools into an already established process regarding youth shelters and host homes, which may lead to confusion as to which law supersedes and what protocol should be followed. The initiative's exception to the types of records a parent cannot access when there is potential abuse or neglect does not include all records, which could endanger children. This initiative does not supersede federal laws such as FERPA, HIPAA, the Civil Rights Act, or Title IX. School districts will need guidance to implement certain provisions such as those related to public school records, written notice regarding student engagements and the option to opt out, and notice related to medical services. This guidance should balance the immediate interests of students as well as the need to inform parents. The Legislature should provide resources to monitor the implementation of this legislation and to make sure it is not implemented in an overly broad way.

Persons Testifying: PRO: Dawn Land; Jennifer Heine-Withee, FPIW Defender; Joy Gjersvold, Conservative Ladies of Washington; Jim Walsh; Alesha Perkins; Tim Garchow, Washington State School Directors' Association; Melissa Petrini, Highline School Board Member, but NOT on behalf of my School Board; Jean Hill, Washington State Catholic Conference; Jennifer Heine-Withee, FPIW Defender.

OTHER: Angela Steck, President, Washington State PTA; Matt Schultz, Office of

Superintendent of Public Instruction (OSPI); Tanya Fernandez, Planned Parenthood Great Northwest; Lisa Keating, Tacoma School Board; Matthew Wilson, Oasis Youth Center; Nasue Nishida, Washington Education Association; Erin Lovell, Legal Counsel for Youth and Children (LCYC).

Persons Signed In To Testify But Not Testifying: PRO: Anthony Mixer, Washington State Young Republicans; Eric pratt, America; Linnea Comstock; Tim Eyman, Initiative activist; Jo Ann Tolentino; Carleen Bohannon; Colleen Rupke; Laurie Layne; Braden Sisk, Let's Go Washington; Tad Sommerville; Justin Blair; Liv Finne, Washington Policy Center; Yazhao Qiu; Alan Shreaves; Sharon HANEK; Sarah Garriott; Anna Zhou; Ann He; Rebecca Zou; William Ji; David Fitzgerald; Dominique France; Julie Barrett, Parent; Carey Hartmann; Angela Fowler; Jeannette Mcchesney; Jeanne Petershagen; Brian Drinkwine; Scott Klakken; Sheri Hayes; Jan Davis; Commissioner Amanda McKinney, Yakima County; Lingyan Ruan; Gordon Dale; Bob Runnells, Informed Choice Washington; David Fitzgerald; Steve Earle; Kristen Bridgan-Brown; John Edwards; Brian Yotz; scot walston; Corey Christensen, KLB Construction, Inc; Charlene Yotz; Christina Tseu; Sierra Elliott, Wa state young republicans; Teresa Jorgenson; Elizabeth Cousins; Kim Vogley; Leslie Peterson; Bob Thornton, Citizen; Cindy Alia, Citizens' Alliance for Property Rights; Rebecca Roadman, NA; Marlene Bostic; Don Bostic; Georgia Ragsdale; Robert Shiras, PC Mobile Inc.; George Stone; PATRICIA BAUER, none; Annella Coffman; Joanne Backus; Yuhua Liu; Dr. AnnRené Joseph; Rebecca Gwaltney; Chris Kay; Sherry Christensen; Randal Lewis, Retired; Desirée Toliver; Liz Sapp; Jom Sapp; Cynthia Radtke; Marilou Brown; Jerry Radtke; Kathy Repass; Fred Repass; Shannon Faulkner; Michelle Lamb; Judy Eagon; KARI FINNEY; Paul Hill; Merry Engelhardt; Eileen Harris; Gregory Jenney; Reid Eickhorst; Brienne Bressler; Chris Camire, The state of Washington and the government have no place in deciding what's best for children; Pastor Valerie Hartwell; Beryl Kelley, Self; Susan Hughes; Janet He; Linda Cohen; Melinda Nelson; Jacqueline A Murphy; John Ley; Michelle Hughes; Dee Hughes; Gabriel Jacobs; Peter Skelley; David Fitzgerald; Dr. Janis Clark, Safe Homes Intl; Jennifer Courtney; Virginia Griffiths; Jodi Dotson; Ke-Qin Gong; Janet He; KIM HILBY, Prefix *; Robert Geyer; Zhuo Song; Mark Haskins; Vicky Kennedy; Delmer Eldred Eldred.