

HB 1431-FN-LOCAL - AS AMENDED BY THE SENATE

15Mar2022... 0881h
04/28/2022 1670s
04/28/2022 1881s
05/05/2022 1943s

2022 SESSION

22-2285
07/10

HOUSE BILL ***1431-FN-LOCAL***

AN ACT establishing the parental bill of rights.

SPONSORS: Rep. Terry, Belk. 5; Rep. Greeson, Graf. 16; Rep. Potucek, Rock. 6; Rep. Littlefield, Belk. 3; Rep. Hough, Belk. 3; Rep. Alliegro, Graf. 7; Rep. Ankarberg, Straf. 10; Rep. Johnson, Belk. 3; Rep. Silber, Belk. 2; Rep. Blasek, Hills. 21; Sen. Giuda, Dist 2

COMMITTEE: Children and Family Law

ANALYSIS

This bill establishes a parental bill of rights, a framework for notice of, and to report violations of, such rights, and consequences for affirmative findings of violations.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT establishing the parental bill of rights.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Declaration of Purpose. The general court finds that it is a fundamental right of parents to direct the upbringing, education, and care of their minor children. The general court further finds that important information relating to a minor child should not be withheld, either inadvertently or purposefully, from his or her parent, including information relating to the minor's education. The general court further finds it is necessary to establish a consistent mechanism for parents to be notified of information relating to the health, education, and well-being of their minor children.

2 New Chapter; Parental Bill of Rights. Amend RSA by inserting after chapter 169-H the following new chapter:

CHAPTER 169-I

PARENTAL BILL OF RIGHTS

169-I:1 Short Title. This chapter may be cited as the Parents' Bill of Rights.

169-I:2 Definitions. In this chapter, "parent" means a person who has legal custody of a minor child as a natural or adoptive parent or a legal guardian, but such term shall not include a parent with whom the parent-child relationship has been terminated by judicial decree or voluntary relinquishment.

169-I:3 Infringement of Parental Rights Prohibited. The state, any of its political subdivisions, including, without limitation, any school board, school district, or school administrative unit, any other governmental entity shall not infringe on the fundamental rights of a parent to direct the upbringing and education 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 cannot be achieved by less restrictive means.

169-I:4 Parental Rights.

I. All parental rights are reserved to the parent of a minor child in this state without obstruction or interference from the state, any of its political subdivisions, including, without limitation, any school board, school district, or school administrative unit, or any other governmental entity including, but not limited to, all of the following rights of a parent of a minor child in this 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 to apply to enroll his or her minor child in a public school or, as an alternative to public education, a private school, including a religious school, a home education program, or other available options, as authorized by law.

(d) The right to access and review all school records relating to his or her minor child, pursuant to RSA 189:66, IV.

(e) The right to be notified promptly if an employee of the state, any of its political subdivisions, or any other governmental entity has a reasonable basis to believe 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 bureau of child protective services and notifying the parent would impede the investigation.

II. An employee of the state, any of its political subdivisions, including, without limitation, any school board, school district, or school administrative unit, 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 who is not suspected of a criminal offense against the minor and sharing the information would not impede an investigation of a criminal offense against the minor may be subject to disciplinary action.

III. A parent of a minor child in this state has rights that are more comprehensive than those listed in this section. This chapter shall not be construed to prescribe all rights to a parent of a minor child in this state.

169-I:5 Parental Rights in Education.

I. Each school board, school district, or school administrative unit shall, in consultation with parents, teachers, and administrators, develop and adopt publicly a policy to promote parental involvement in the public school system. Such policy shall include:

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

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

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

(d) Procedures for a parent to learn about gifted or special education programs offered in the district.

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

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1 (1) Their right to object to instructional materials and other materials used in the
2 classroom, pursuant to RSA 186:11, IX-c.

3 (2) Their right to exercise their option to get an exception to a particular health or
4 sex education instruction, pursuant to RSA 186:11, IX-b.

5 (3) Their right to exempt his or her minor child from immunizations, as provided in
6 RSA 141-C:20-a.

7 (4) Their right to review statewide, standardized assessment results.

8 (5) Their right to inspect school district instructional materials.

9 (6) Their right to access information relating to the school district's policies for
10 promotion or retention, including high school graduation requirements.

11 (7) Their right to receive a school report card and be informed of his or her minor
12 child's attendance requirements and compliance with such requirements.

13 (8) Their right to access information relating to the state standards, report card
14 requirements, attendance requirements, and instructional materials requirements.

15 (9) Their right to participate in parent-teacher associations and parent-teacher
16 organizations that are sanctioned by a school board or the department of education.

17 (10) The right of a parent to opt out of any district-level data collection relating to
18 his or her minor child not required by law.

19 (f) The right to be notified promptly when any school board, school district, school
20 administrative unit, school administrator, or other school employee initiates, terminates, or changes:

21 (1) A student's course of study or registration in classes, athletic teams, clubs, or
22 other extra-curricular activities;

23 (2) Any discipline imposed by school authorities;

24 (3) Services recommended or provided pursuant to an individualized education plan
25 or Section 504 of the Rehabilitation Act of 1973;

26 (4) Provision of any Medicaid services;

27 (5) Enrollment in any Title I services or free and reduced lunch program;

28 (6) Off-campus activities, including field trips or off-campus privileges;

29 (7) Medical treatment, including provision of medication, psychological, or
30 counseling services; or

31 (8) Directory information.

32 (g) The right to be notified promptly when any school board, school district, school
33 administrative unit, school administrator, or other school employee initiates, investigates, or finds
34 the need for any action by school authorities relating to the student pursuant to school policies
35 governing student conduct, truancy, dress code violations, sexual harassment, bullying, hazing,
36 behavior management and intervention, substance use, suicide prevention, gender expression or
37 identity, disability accommodation, and special meal prescription.

1 II. A parent may request, in writing, from the superintendent the information required
2 under this section. Within 10 business days of such request, the superintendent shall provide such
3 information to the parent. If the superintendent denies a parent's request for information or does
4 not respond to the parent's request within 10 business days, the parent may appeal the denial to the
5 school board. The school board shall place a parent's appeal on the agenda for its next public
6 meeting. If it is too late for a parent's appeal to appear on the next agenda, the appeal shall be
7 included on the agenda for the subsequent meeting. If a parent is dissatisfied with the results of
8 such an appeal, or such an appeal does not take place in a timely fashion as required by this
9 paragraph, the aggrieved parent may bring an action for declaratory and injunctive relief as set forth
10 in RSA 169-I:7.

11 169-I:6 Exceptions. This chapter does not:

12 I. Authorize a parent of a minor child in this state to engage in conduct that is unlawful or
13 to abuse or neglect his or her minor child in violation of general law, as defined in RSA 169-C.

14 II. Restrict the authority of the department of health and human services, division for
15 children, youth and families.

16 III. Prohibit a court of competent jurisdiction, law enforcement officer, or employees of a
17 government agency that is responsible for child welfare from acting in his or her official capacity.

18 169-I:7 Violations. Any parent claiming a violation of any provisions of this chapter may bring
19 an action for declaratory relief, injunctive relief, and money damages against the state or any of its
20 political subdivisions, including, without limitation, any school board, school district, or school
21 administrative unit, any other governmental entity which the parent claims has violated this
22 chapter in the superior court having jurisdiction over the relevant individual or the state or any of
23 its political subdivisions. If the court finds in favor of the parent, it may award reasonable attorneys'
24 fees and court costs to the parent.

25 3 Effective Date. This act shall take effect January 1, 2023.

HB 1431-FN-LOCAL- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENTS #2022-1943s)

AN ACT establishing the parental bill of rights.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill establishes a parental bill of rights, a framework for notice of, and to report violations of, such rights, and consequences for affirmative findings of violations.

The Judicial Branch indicates this bill authorizes any parent to bring an action for injunctive relief and damages in superior court, and would authorize the court to award a parent fees and costs. The Branch assumes that, if this bill is enacted, there would be an increase in civil petitions filed in Superior Court and an increase in the number of appeals taken to the Supreme Court. The Judicial Branch is unable to estimate the number of such new complaints and petitions, and the fiscal impact is therefore indeterminable.

The Department of Education states many of the enumerated rights are pre-existing by statute, school policy, or both and the required information for parents should currently exist under existing laws or rules. The bill would require that a parental request for any of the enumerated items must be responded to within ten (10) business days. The Department indicates there would be no additional cost to the Department from this legislation.

AGENCIES CONTACTED:

Judicial Branch and Department of Education