

HB 10-FN - AS INTRODUCED

2023 SESSION

23-0093

06/10

HOUSE BILL ***10-FN***

AN ACT establishing the parental bill of rights.

SPONSORS: Rep. Packard, Rock. 16; Rep. Greeson, Graf. 6; Rep. Terry, Belk. 7; Rep. Steven Smith, Sull. 3; Rep. Osborne, Rock. 2; Rep. DeSimone, Rock. 18; Rep. L. Sanborn, Hills. 2; Rep. Hobson, Rock. 14; Rep. Potucek, Rock. 13; Rep. Hoell, Merr. 27

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

1 169-I:3 Infringement of Parental Rights Prohibited. The state; any of its political subdivisions,
2 including, without limitation, any school board, school district, or school administrative unit; any
3 other governmental entity; or any other institution, may not infringe on the fundamental rights of a
4 parent to direct the upbringing, education, health care, and mental health of his or her minor child
5 without demonstrating that such action is reasonable and necessary to achieve a compelling state
6 interest and that such action is narrowly tailored and is not otherwise served by a less restrictive
7 means.

8 169-I:4 Parental Rights.

9 I. All parental rights are reserved to the parent of a minor child in this state without
10 obstruction or interference from the state, any of its political subdivisions, including, without
11 limitation, any school board, school district, or school administrative unit, any other governmental
12 entity, or any other institution, including, but not limited to, all of the following rights of a parent of
13 a minor child in this state:

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

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

17 (c) The right to apply to enroll his or her minor child in a public school or, as an
18 alternative to public education, a private school, including a religious school, a home education
19 program, or other available options, as authorized by law.

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

22 (e) The right to make health care decisions for his or her minor child, unless otherwise
23 prohibited by law. This right includes decisions pertaining to end-of-life treatments and care for a
24 child with a terminal condition.

25 (f) The right to be physically present at any health care facility licensed pursuant to RSA
26 151:2 at which their minor child is receiving hospital care.

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

30 (h) The right to consent in writing before a biometric scan of his or her minor child is
31 made, shared, or stored, pursuant to RSA 189:65 and RSA 189:68.

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

35 (j) The right to consent in writing before the state or any of its political subdivisions,
36 including, without limitation, any school board, school district, or school administrative unit; and
37 pursuant also to the provisions of RSA 189:68, III- V, makes a video or voice recording of his or her

1 minor child unless such recording is made during or as part of a court proceeding or is made as part
2 of a forensic interview in a criminal or other investigation by the bureau of child protective services
3 or is to be used solely for the purpose of a safety demonstration, including the maintenance of order
4 and discipline in the common areas of a school or on student transportation vehicles;

5 (k) The right to be notified promptly if an employee of the state, any of its political
6 subdivisions, any other governmental entity, or any other institution suspects that a criminal offense
7 has been committed against his or her minor child, unless the incident has first been reported to law
8 enforcement or the bureau of child protective services and notifying the parent would impede the
9 investigation.

10 II. This section does not:

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

13 (b) Prohibit a court of competent jurisdiction, law enforcement officer, or employees of a
14 government agency that is responsible for child welfare from acting in his or her official capacity
15 within the reasonable and prudent scope of his or her authority, pursuant to RSA 186:11, IX-c.

16 III. An employee of the state, any of its political subdivisions, including, without limitation,
17 any school board, school district, or school administrative unit, or any other governmental entity who
18 encourages or coerces, or attempts to encourage or coerce, a minor child to withhold information
19 from his or her parent may be subject to disciplinary action.

20 IV. A parent of a minor child in this state has inalienable rights that are more
21 comprehensive than those listed in this section, unless such rights have been legally waived or
22 terminated. This chapter does not prescribe all rights to a parent of a minor child in this state.
23 Unless required by law, the rights of a parent of a minor child in this state may not be limited or
24 denied.

25 169-I:5 School Board Notifications on Parental Rights.

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

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

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

33 (c) Procedures, for a parent to object to instructional materials and other materials used
34 in the classroom. Such objections may be based on beliefs regarding morality, sex, and religion or
35 the belief that such materials are harmful. For purposes of this section, the term "instructional
36 materials" shall include, without limitation, all materials used in the classroom, including

1 workbooks and worksheets, handouts, software, applications, and any digital media made available
2 to students.

3 (d) Procedures for a parent to withdraw his or her minor child from any portion of the
4 school district's health education program that relates to sex education or instruction in acquired
5 immune deficiency syndrome education or any instruction regarding sexuality if the parent provides
6 a written objection to his or her minor child's participation. Such procedures must provide for a
7 parent to be notified in advance of such course content so that he or she may withdraw his or her
8 minor child from those portions of the course.

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

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

14 (1) The right to opt his or her minor child out of any portion of the school district's
15 health education program that relates to sex education instruction in acquired immune deficiency
16 syndrome education or any instruction regarding sexuality.

17 (2) The right of a parent to exempt his or her minor child from immunizations, as
18 per the provisions of RSA 141-C:20-a relative to immunizations.

19 (3) The right of a parent to receive statewide, standardized assessment results.

20 (4) The right of a parent to enroll his or her minor child in gifted or special education
21 programs if the child qualifies for such programs.

22 (5) The right of a parent to inspect school district instructional materials.

23 (6) The right of a parent to access information relating to the school district's
24 policies.

25 (7) The right of a parent to receive a school report card and be informed of his or her
26 minor child's attendance requirements and compliance with such requirements.

27 (8) The right of a parent to access information relating to the state public education
28 system, state standards, report card requirements, attendance requirements, and instructional
29 materials requirements.

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

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

34 II. A school board may provide the information required in this section electronically or post
35 such information on its website. Additionally, at the beginning of each new school year a school
36 board shall provide to parents a written copy of the following rights which shall be titled, "Parents'

1 Bill of Rights" and all of which are consistent with or pursuant to the provisions of this statute, and
2 in no way conflict with them:

3 (a) You have the right and expectation to question and address your child's school
4 officials via letters, electronic communications, and in person meetings including elected school
5 board meetings. You also have the right to attend publicly designated meetings with proper notice of
6 the meetings provided.

7 (b) You have the right and expectation to question and review curriculum taught in your
8 child's school by questioning your school board and school administrators during public comment
9 periods at publicly designated meetings.

10 (c) You have the right and expectation that academic curriculum taught in your child's
11 school aligns with New Hampshire and federal law.

12 (d) You have the right and expectation to participate in the selection and approval of
13 academic standard for the State of New Hampshire.

14 (e) You have the right and expectation to access educational materials and curriculum
15 taught to your child in the classroom and school.

16 (f) You have the right to run as a candidate for your local school board.

17 (g) You have the right to make decisions regarding vaccinations and immunizations for
18 your child.

19 (h) You have the right and expectation to make medical decisions on behalf of your child.

20 (i) You have the right and expectation to receive your child's student health records.

21 (j) You have the right to receive special education services on behalf of your child with a
22 disability.

23 III. A parent may request, in writing, from the district school superintendent the
24 information required under this section pursuant to RSA 91-A.

25 169-I:6 Parental Consent for Health Care Services.

26 I. Except as otherwise provided by law or a court order, a health care practitioner or an
27 individual employed by such health care practitioner may not provide or solicit or arrange to provide
28 health care services or prescribe medicinal drugs to a minor child without first obtaining written
29 parental consent.

30 II. Except as otherwise provided by law or a court order, a health care provider may not
31 allow a medical procedure to be performed on a minor child in its facility without first obtaining
32 written parental consent.

33 III. This section does not apply to services provided by a clinical laboratory, unless the
34 services are delivered through a direct encounter with the minor at the clinical laboratory facility.

35 IV. This section does not apply to emergency services pursuant to RSA 153-A:18.

36 V. A health care practitioner or other person who violates this section is subject to
37 disciplinary action, and such a violation constitutes a class A misdemeanor.

1 169-I:7 Violations.

2 I. A violation of any provision of this chapter by an individual shall constitute a class A
3 misdemeanor.

4 II. Any parent claiming violation of any provisions of this chapter may, upon failure to find
5 relief through lesser means, bring an action for injunctive relief and damages against the state or
6 any of its political subdivisions, including, without limitation, any school board, school district, or
7 school administrative unit; any other governmental entity; or any physician, clinician, therapist, or
8 counselor that the parent claims has violated this chapter in the superior court having jurisdiction
9 over the relevant individual or the state or any of its political subdivisions, including, without
10 limitation, any school board, school district, or school administrative unit, any other governmental
11 entity, and if the court finds in favor of the parent, it may award to the parent his or her reasonable
12 attorneys' fees and court costs, including such attorneys' fees and court costs on appeal to the state's
13 supreme court.

14 III. Any teacher or administrator with certification to teach found guilty of violating any
15 section of this law shall have his or her teaching credentials suspended for a minimum of one year
16 for a first offense or employment terminated for multiple offenses. A school employee that is not a
17 teacher shall be placed on unpaid leave for the remainder of the school year for a first offense or have
18 employment terminated for multiple offenses. Any contractor or third party employed by the school
19 that violates any section of this bill shall be fined \$2,500 and be restricted from any further access to
20 all schools in the district for 1 year for a first offense and fined \$5,000 plus permanent restriction
21 from all schools in the district for additional offenses.

22 IV. Any medical or mental health professional found guilty of violating any portion of this
23 law shall have their license suspended for a minimum of one year for a first offense and permanently
24 revoked for multiple offenses.

25 3 Effective Date. This act shall take effect January 1, 2024.

**HB 10-FN- FISCAL NOTE
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FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
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 provides that governmental entities, or any other institution, may not infringe on the fundamental rights of a parent to direct the upbringing, education, and care 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. The new statute would include a non-exclusive list of rights of a parent of a minor child. A parent may request from a school district certain required information, and a failure of the district to disclose the information can be appealed, first to the school board and then to the Superior Court. The bill provides for parental rights regarding health care and health care services, criminal and civil remedies for violations, and that a mandatory suspension of credentials or licenses for any teacher, school administrator, or medical or mental health professional, found guilty of violating any section of the law.

The Judicial Branch states this bill would result in an increase to criminal and civil complaints filed in Circuit Court and Superior Court, and there would be 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 therefore unable to estimate this bill's impact on Branch expenditures in FY 2024 and each year thereafter.

The Department of Education states this bill principally codifies some, not all, of existing regulations required to be followed by schools relative to parental rights and school transparency (this includes only state laws and there are further federal laws that public schools must comply with relative to this topic). The Department states this bill does not

impose additional requirements on school districts that would result in additional costs, however, it is possible that with awareness of certain parental rights, school districts may experience an increase in right to know requests, for which requirements exist under the current law.

AGENCIES CONTACTED:

Judicial Branch and Department of Education