

SECOND REGULAR SESSION

HOUSE BILL NO. 1995

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RICHEY.

4180H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 161, RSMo, by adding thereto three new sections relating to parental rights in public schools, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 161, RSMo, is amended by adding thereto three new sections, to
2 be known as sections 161.851, 161.852, and 161.853, to read as follows:

3 **161.851. 1. This section shall be known and may be cited as "The Parents' Bill of**
4 **Rights for Student Well-Being".**

5 **2. For the purposes of this section, the term "parent" shall mean any person who**
6 **has charge, control, or custody of a minor child, whether as a natural parent, adoptive**
7 **parent, or legal guardian.**

8 **3. No governmental entity, school district, or other public institution shall**
9 **infringe on the fundamental rights of a parent to direct the upbringing, education,**
10 **health care, or mental health of such parent's minor child without first demonstrating**
11 **that such infringement is reasonable, narrowly tailored to achieve a compelling state**
12 **interest, and that such interest could not otherwise be served by less restrictive means.**

13 **4. For the purposes of subsection 3 of this section, a parent's fundamental rights**
14 **to direct the upbringing, education, health care, and mental health of such parent's**
15 **minor child shall include, but not be limited to, the following:**

16 **(1) The right to direct the ethical, moral, and religious training of such child;**
17 **(2) The right to enroll such child in a public school, parochial school, home**
18 **school program, or other available schooling option, to the extent otherwise authorized**
19 **by law;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18 **(3) The right to direct the education of such child including, but not limited to,**
19 **the right to access and review the following information:**

20 **(a) All school records relating to such child including, but not limited to, a**
21 **regular report of such child's academic performance and attendance;**

22 **(b) Such child's statewide, standardized assessment results;**

23 **(c) School district instructional materials;**

24 **(d) School district policies for promotion or retention including, but not limited**
25 **to, graduation requirements; and**

26 **(e) Information relating to the state's academic performance standards, report**
27 **card requirements, attendance requirements, and instructional materials requirements;**

28 **(4) The right to participate in parent-teacher associations and organizations**
29 **sanctioned by the school district or department of elementary and secondary education;**

30 **(5) The right, under section 162.720, to request a review of a school district's**
31 **determination that such child did not qualify to receive services through such district's**
32 **gifted education program;**

33 **(6) The right to make health care decisions for such child, except as otherwise**
34 **prohibited by law;**

35 **(7) The right to exempt such minor child from immunizations under subsection**
36 **3 of section 167.181;**

37 **(8) The right to consent in writing before biometric data, as defined in section**
38 **302.170, regarding such child is made, shared, or stored, except as required by law or**
39 **court order; and**

40 **(9) The right to consent in writing before any governmental entity, school**
41 **district, or other public institution produces a video or audio recording of such child**
42 **unless such recording is made for the purposes of:**

43 **(a) A court proceeding, forensic interview, or criminal or other investigation**
44 **related to the welfare of such child;**

45 **(b) The maintenance of order and discipline in a school building, on school**
46 **grounds, and on student transportation vehicles;**

47 **(c) A legitimate academic or extracurricular activity;**

48 **(d) Regular classroom instruction;**

49 **(e) Security or surveillance of school buildings, school grounds, or student**
50 **transportation vehicles; or**

51 **(f) A photo identification card.**

52 **5. Each school district shall, in consultation with parents, teachers, and**
53 **administrators, develop and adopt a policy to promote parental involvement in the**
54 **public school system. Such policy shall include at least:**

55 (1) A plan for parental participation in schools, including through cooperation
56 with teachers regarding homework, school attendance, and discipline;

57 (2) Procedures for a parent to receive information about such parent's child's
58 course of study including, but not limited to, the source of any supplemental educational
59 materials;

60 (3) Procedures for a parent to object to instructional materials and other
61 materials used in the classroom based on such parent's beliefs regarding morality,
62 sexuality, religion, or other issues related to the well-being, education, and upbringing of
63 such parent's child;

64 (4) Procedures for a parent to withdraw such parent's child from any portion of
65 the school district's health education related to human sexuality and sexually
66 transmitted diseases;

67 (5) Procedures for a parent to learn about the nature and purpose of clubs and
68 other extracurricular activities offered at such parent's child's school; and

69 (6) Procedures for providing parents with other information to which such
70 parents have a right of access under subsection 4 of this section.

71 6. The department of elementary and secondary education shall develop and
72 every school district shall use the following forms:

73 (1) A form that authorizes a parent to object to and opt out of any instructional
74 materials or materials used in the child's classroom as described in subdivisions (3) and
75 (4) of subsection 5 of this section. Such form shall be made available to every parent at
76 the beginning of a school year by each school district;

77 (2) A form that is sent to every parent by the school district at the beginning of
78 every school year that allows a parent to ask for notification in advance by the school
79 attended by the parent's child whenever a teacher intends to teach a divisive or
80 controversial topic that may conflict with a parent's belief that all persons, regardless of
81 race, ethnicity, color, national origin, or ancestry, should be treated equally. If a parent
82 submits such form to the child's school, the school shall provide notice at least two weeks
83 in advance of the teaching of any such divisive or controversial topic.

84 7. Each school district may provide any information to which a parent has a
85 right of access under this section by publishing such information electronically in a
86 reasonably accessible format, except to the extent that such publication would result in
87 the disclosure of personally identifiable or confidential information in violation of other
88 law.

89 8. A parent may file a formal request in writing with the superintendent of the
90 parent's child's school district for access to any information to which such parent has a
91 right of access under this section. The superintendent shall provide such information to

92 the parent within ten days and may do so by any reasonable means including, but not
93 limited to, by directing the parent to electronic resources to the extent such resources
94 are responsive to the parent's request. If the superintendent denies such request or does
95 not respond within ten days, the parent may file an appeal with the school board. The
96 school board shall place the parent's appeal on the agenda for the next public meeting of
97 the board, provided that the school board may instead place such appeal on the agenda
98 for the public meeting of the board to occur subsequent to the next such meeting if the
99 appeal is filed within seven days of the next such meeting.

100 9. No employee of any governmental entity, school district, or other public
101 institution shall encourage, coerce, or attempt to coerce a minor child to withhold
102 information from such child's parents; provided, however, that any such person
103 required to report suspected abuse or neglect under sections 210.109 to 210.183 may
104 encourage a minor child to withhold information where disclosure could reasonably
105 result in abuse or neglect. Notwithstanding any other provision of law to the contrary,
106 any person found in violation of this subsection may be subject to disciplinary action by
107 such person's employer.

108 10. This section shall not be construed to:

109 (1) Authorize a parent to engage in unlawful conduct, such as abuse or neglect;

110 (2) Condone, authorize, approve, or apply to any parental action or decision that
111 would end life;

112 (3) Prohibit a court of competent jurisdiction, a law enforcement officer, or
113 employees of a governmental entity or other public institution responsible for child
114 welfare from acting within the reasonable and prudent scope of such court or person's
115 official capacity and authority;

116 (4) Modify the common law doctrine of in loco parentis as such doctrine applies
117 to the operation of public schools and to the duties of administrators and employees of
118 such schools; or

119 (5) Limit the inalienable rights of a parent, whether enumerated in the
120 provisions of this section.

121 11. (1) A parent may file with the school board a formal objection to any school
122 policy, practice, or procedure that violates any provision of this section. School boards
123 shall provide by general rule not inconsistent with this section for the procedure and
124 conduct for filing and responding to such objections. Within thirty days of receipt of the
125 objection, the school board shall issue a response denying the parent's objection or
126 describing an implementation plan to immediately correct the violation.

127 (2) The school board may deny any objection alleging a de minimis infringement
128 of parental rights or if the requested accommodation is unreasonable. An alleged

129 infringement of parental rights shall be considered de minimis if it does not materially
130 infringe upon any right provided in this section.

131 (3) A parent whose formal objection has been denied shall have the right to
132 appeal such decision to the department of elementary and secondary education. The
133 appeal shall be taken within fifteen days of the decision of the school board and may be
134 taken by filing a notice of appeal with the department of elementary and secondary
135 education. Such appeal shall be heard as provided in chapter 536.

136 (4) Following a final decision by the department of elementary and secondary
137 education in an appeal taken under subdivision (3) of this subsection, a parent may seek
138 judicial review of such decision in the circuit court for the county in which the school
139 district is located.

140 (a) Upon a finding by a preponderance of the evidence that a school district has
141 knowingly violated the provisions of this section, a parent shall be awarded one
142 thousand dollars per violation and the payment by the school district to the parent of all
143 costs and reasonable attorney's fees.

144 (b) Upon a finding by a preponderance of the evidence that a school district has
145 purposely violated the provisions of this section, a parent shall be awarded five thousand
146 dollars per violation and the payment by the school district to the parent of all costs and
147 reasonable attorney's fees.

148 12. The department of elementary and secondary education may promulgate
149 rules to implement the provisions of this section. Any rule or portion of a rule, as that
150 term is defined in section 536.010, that is created under the authority delegated in this
151 section shall become effective only if it complies with and is subject to all of the
152 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter
153 536 are nonseverable, and if any of the powers vested with the general assembly
154 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
155 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
156 and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

161.852. 1. The commissioner of education shall establish the "Missouri
2 Education Transparency and Accountability Portal", which shall be an internet-based
3 tool creating transparency in Missouri's public education system and providing citizens
4 access to every school district's curriculum, source materials, and professional
5 development materials.

6 2. The portal shall consist of an easy-to-search database including, but not
7 limited to, the following:

8 (1) All curriculum taught by the school district;

9 (2) All source materials used to develop a district's curriculum;

10 **(3) All documents used by a school district in the professional development of the**
11 **district's faculty and staff including, but not limited to, administrators, teachers,**
12 **counselors, and classroom support staff;**

13 **(4) All source materials used to develop the documents used by a school district**
14 **in the school district's professional development materials as outlined in subdivision (3)**
15 **of this subsection;**

16 **(5) All speakers and guests used by a school district in the school district's**
17 **professional development activities; and**

18 **(6) The cost associated with speakers and guests used by a school district in the**
19 **school district's professional development activities.**

20 **3. The commissioner of education shall establish an online form that each school**
21 **district in this state shall complete with information required under subsection 2 of this**
22 **section.**

23 **4. A school district shall submit any updates to the information outlined in**
24 **subsection 2 of this section within five business days of the information changing.**

25 **5. The commissioner of education shall update the portal with the information**
26 **required by this section to be submitted by each school district no less than weekly and**
27 **shall ensure that the portal is maintained as the primary centralized source of**
28 **information about the curriculum and instructional materials used by public school**
29 **districts.**

30 **6. The department of elementary and secondary education may promulgate**
31 **rules to implement this section. Any rule or portion of a rule, as that term is defined in**
32 **section 536.010, that is created under the authority delegated in this section shall**
33 **become effective only if it complies with and is subject to all of the provisions of chapter**
34 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable,**
35 **and if any of the powers vested with the general assembly pursuant to chapter 536 to**
36 **review, to delay the effective date, or to disapprove and annul a rule are subsequently**
37 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
38 **adopted after August 28, 2022, shall be invalid and void.**

2 **161.853. 1. The attorney general of this state or any parent of a child enrolled in**
3 **a public school in this state may bring legal action against the school district in which**
4 **such parent's child is enrolled for violations of sections 161.851 to 161.852. Such action**
5 **may be brought in any county or any city not within a county in which the school**
6 **district boundaries lie or may be brought in the Cole County circuit court.**

7 **2. If a court of competent jurisdiction finds that a school district violated the**
8 **provisions of sections 161.851 to 161.852, the school district shall be fined one thousand**
9 **dollars for each violation of such sections unless the court finds that the school district**

9 **knowingly or purposely violated the provisions of such sections. If a court of competent**
10 **jurisdiction finds that a school district knowingly or purposely violated the provisions of**
11 **such sections, the school district shall be fined ten thousand dollars for each violation of**
12 **such sections.**

13 **3. (1) If a school district is fined by a court of competent jurisdiction for**
14 **violations of sections 161.851 to 161.852, the proceeds of such fine shall be divided as**
15 **follows:**

16 **(a) Twenty percent shall be awarded to the parent who brought the legal action**
17 **against the school district. If parents of more than one child bring suit, the twenty**
18 **percent award shall be divided equally among each family represented; and**

19 **(b) Eighty percent shall be deposited into the Missouri empowerment**
20 **scholarship accounts fund established under section 135.716.**

21 **(2) If a court of competent jurisdiction finds that a school district violated the**
22 **provisions of sections 161.851 to 161.852, the court shall award court costs and**
23 **reasonable attorney's fees to the prevailing party or parties.**

24 **4. Any school district employee who discloses violations of sections 161.851 to**
25 **161.852 shall be protected from any manner of retaliation as set forth in section 105.055.**

Section B. Because immediate action is necessary to protect the rights of parents and
2 their children, section A of this act is deemed necessary for the immediate preservation of the
3 public health, welfare, peace, and safety, and is hereby declared to be an emergency act within
4 the meaning of the constitution, and section A of this act shall be in full force and effect upon
5 its passage and approval.

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