

# SENATE BILL NO. 810

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

3861S.04I

ADRIANE D. CROUSE, Secretary

## AN ACT

To amend chapter 161, RSMo, by adding thereto three new sections relating to elementary and secondary education, with 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  
2 three new sections, to be known as sections 161.228, 161.851,  
3 and 161.852, to read as follows:

161.228. 1. School districts shall be required to  
2 provide notification to parents or guardians in the form of  
3 prior, positive written consent regardless of funding source  
4 for each and every survey, evaluation, or analysis when the  
5 following topics shall or may be asked of a student. The  
6 provisions of this subsection shall also apply to verbal or  
7 discussion questions on the following topics and shall  
8 require prior, written consent from the parent or guardian  
9 of a minor child. Prior, written consent will be required  
10 of the student when such student is not a minor. Consent  
11 given shall be specific to the activity, include the  
12 approximate planned date or dates of the activity, be in  
13 written form, and shall be signed and dated by the parent or  
14 guardian of the minor child or student, if not a minor.  
15 Topics subject to the provisions of this subsection shall  
16 include:

17 (1) Political affiliations or beliefs of the student  
18 or the student's parent or guardian;

- 19           (2) Mental and psychological problems of the student  
20 or the student's family;
- 21           (3) Sex behavior or attitudes;
- 22           (4) Illegal, anti-social, self-incriminating, or  
23 demeaning behavior;
- 24           (5) Critical appraisals of other individuals with whom  
25 respondents have close family relationships;
- 26           (6) Legally recognized privileged or analogous  
27 relationships, such as those of lawyers, physicians, and  
28 ministers;
- 29           (7) Religious practices, affiliations, or beliefs of  
30 the student or student's parent; or
- 31           (8) Income, other than that required by law to  
32 determine eligibility for participation in a program or for  
33 receiving financial assistance under such program.
- 34           2. (1) School districts shall be required to receive  
35 positive prior, written parent or guardian consent for a  
36 minor child or consent from the student if not a minor for  
37 the creation of a student psychological/social-emotional  
38 profile. Consent for creation of a profile may include but  
39 is not limited to data from the following two sources:
- 40           (a) A student's completion of surveys, evaluations,  
41 and analysis, subject to the consent limits under the  
42 provisions of this section; and
- 43           (b) Teacher and school staff collection of information  
44 and their completion of surveys, evaluations and analysis  
45 based on their observations, inventories, and knowledge of a  
46 student.
- 47 If consent is not provided, no information may be collected  
48 and maintained from either the student or by teachers and

49 staff and no psychological/social-emotional profile may be  
50 created for a student.

51 (2) Psychological/social emotional student profiles  
52 shall not be summarized, consolidated, nor inventoried for  
53 any grouping of students such as classroom, grade, school,  
54 or district and shall not be used to develop or choose level  
55 I intervention programs under the Missouri comprehensive  
56 school counseling program.

57 (3) Third parties used to design surveys, collect this  
58 data, and create a psychological/social-emotional profile of  
59 a student shall not maintain this data for more than sixty  
60 days without a separate prior, written parent or guardian  
61 consent for a minor child or consent of a student if not a  
62 minor.

63 (4) The access and disclosure of a student  
64 psychological/social-emotional profile shall not be shared  
65 with non-medically licensed teachers and staff without  
66 specific, separate, prior written consent of the parent or  
67 guardian or the student if not a minor.

68 (5) A student's psychological/social-emotional profile  
69 shall not become part of a permanent record nor transferred  
70 to any state or federally maintained data system, third  
71 parties, nor other schools without specific, separate prior,  
72 written consent of the parent or guardian or the student if  
73 not a minor.

74 3. Schools shall provide notice of the provisions of  
75 this section to parents bi-annually at the beginning of each  
76 semester. This disclosure shall include the consents  
77 required, the school sources of data for the creation of  
78 psychological/social-emotional profiles on students, and the  
79 protections and safeguards of psychological data regarding

80 access, disclosure to third parties, and transfer to other  
81 schools and consents required.

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

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

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

16 4. For the purposes of subsection 3 of this section, a  
17 parent's fundamental rights to direct the upbringing,  
18 education, health care, and mental health of such parent's  
19 minor child shall include:

20 (1) The right to direct the ethical, moral, and  
21 religious training of such child;

22 (2) The right to enroll such child in a public school,  
23 parochial school, home school program, or other available  
24 schooling option, to the extent otherwise authorized by law;

25 (3) The right to direct the education of such child,  
26 including the right to access and review the following  
27 information:

28 (a) All school records relating to such child,  
29 including a regular report of such child's academic  
30 performance and attendance;

31           (b) Such child's statewide, standardized assessment  
32 results;

33           (c) School district instructional materials;

34           (d) School district policies for promotion or  
35 retention, including graduation requirements; and

36           (e) Information relating to the state's academic  
37 performance standards, report card requirements, attendance  
38 requirements, and instructional materials requirements;

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

42           (5) The right, pursuant to section 162.720, to request  
43 a review of a school district's determination that such  
44 child did not qualify to receive services through such  
45 district's gifted education program;

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

48           (7) The right to consent in writing before biometric  
49 data, as defined in section 302.170, regarding such child is  
50 made, shared, or stored, except as required by law or court  
51 order; and

52           (8) The right to consent in writing before any  
53 governmental entity, school district, or other public  
54 institution produces a video or audio recording of such  
55 child, unless such recording is made for the purposes of:

56           (a) A court proceeding, forensic interview, or  
57 criminal or other investigation related to the welfare of  
58 such child;

59           (b) The maintenance of order and discipline in a  
60 school building, on school grounds, and on student  
61 transportation vehicles;

62           (c) A legitimate academic or extracurricular activity;

63 (d) Regular classroom instruction;

64 (e) Security or surveillance of school buildings,  
65 school grounds, or student transportation vehicles; or

66 (f) A photo identification card.

67 5. Each school district shall, in consultation with  
68 parents, teachers, and administrators, develop and adopt a  
69 policy to promote parental involvement in the public school  
70 system. Such policy shall include:

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

74 (2) Procedures for a parent to receive information  
75 about his or her child's course of study, including the  
76 source of any supplemental educational materials;

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

82 (4) Procedures for a parent to withdraw his or her  
83 child from any portion of the school district's health  
84 education related to human sexuality and sexually  
85 transmitted diseases;

86 (5) Procedures for a parent to learn about the nature  
87 and purpose of clubs and other extracurricular activities  
88 offered at his or her child's school;

89 (6) Procedures for providing parents with other  
90 information to which such parents have a right of access  
91 pursuant to subsection 4 of this section.

92 6. The department of elementary and secondary  
93 education shall develop, and every school district shall  
94 utilize, the following forms:

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

101           (2) A form that is sent to every parent by the school  
102 district at the beginning of every school year that allows a  
103 parent to ask for notification in advance by the school  
104 attended by the parent's child whenever a teacher intends to  
105 teach a divisive or controversial topic that may conflict  
106 with a parent's belief that all persons, regardless of race,  
107 ethnicity, color, national origin, or ancestry, should be  
108 treated equally. If a parent submits such form to the  
109 child's school, the school shall provide notice at least two  
110 weeks in advance of the teaching of any such divisive or  
111 controversial topic.

112           7. Each school district may provide any information to  
113 which a parent has a right of access pursuant to this  
114 section by publishing such information electronically in a  
115 reasonably accessible format, except to the extent that such  
116 publication would result in the disclosure of personally  
117 identifiable or confidential information in violation of  
118 other law.

119           8. A parent may file a formal request in writing with  
120 the superintendent of his or her child's school district for  
121 access to any information to which such parent has a right  
122 of access pursuant to this section. The superintendent  
123 shall provide such information to the parent within ten  
124 days, and may do so by any reasonable means, including by  
125 directing the parent to electronic resources to the extent  
126 such resources are responsive to the parent's request. If

127 the superintendent denies such request or does not respond  
128 within ten days, the parent may file an appeal with the  
129 school board. The school board shall place the parent's  
130 appeal on the agenda for the next public meeting of the  
131 board, provided that the school board may instead place such  
132 appeal on the agenda for the public meeting of the board to  
133 occur subsequent to the next such meeting if the appeal is  
134 filed within seven days of the next such meeting.

135 9. No employee of any governmental entity, school  
136 district, or other public institution shall encourage,  
137 coerce, or attempt to coerce a minor child to withhold  
138 information from such child's parents, provided however that  
139 any such person required to report suspected abuse or  
140 neglect pursuant to sections 210.109 to 210.183 may  
141 encourage a minor child to withhold information where  
142 disclosure could reasonably result in abuse or neglect.  
143 Notwithstanding any other provision of law to the contrary,  
144 any person found in violation of this subsection may be  
145 subject to disciplinary action by his or her employer.

146 10. This section shall not be construed to:

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

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

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

156 (4) Modify the common law doctrine of in loco parentis  
157 as such doctrine applies to the operation of public schools

158 and to the duties of administrators and employees of such  
159 schools; or

160 (5) Limit the inalienable rights of a parent, whether  
161 or not enumerated in the provisions of this section.

162 11. (1) A parent may file with the school board a  
163 formal objection to any school policy, practice, or  
164 procedure which violates any provision of this section.  
165 School boards shall provide by general rule not inconsistent  
166 with this section for the procedure and conduct for filing  
167 and responding to such objections. Within thirty days of  
168 receipt of the objection, the school board shall issue a  
169 response denying the parent's objection or describing an  
170 implementation plan to immediately correct the violation.

171 (2) The school board may deny any objection alleging a  
172 de minimis infringement of parental rights or if the  
173 requested accommodation is unreasonable. An alleged  
174 infringement of parental rights shall be considered de  
175 minimis if it does not materially infringe upon any right  
176 provided in this section.

177 (3) A parent whose formal objection has been denied  
178 shall have the right to appeal such decision to the  
179 department of elementary and secondary education. The  
180 appeal shall be taken within fifteen days of the decision of  
181 the school board and may be taken by filing a notice of  
182 appeal with the department of elementary and secondary  
183 education. Such appeal shall be heard as provided in  
184 chapter 536.

185 (4) Following a final decision by the department of  
186 elementary and secondary education in an appeal taken  
187 pursuant to subdivision (3) of this subsection, a parent may  
188 seek judicial review of such decision in the circuit court  
189 for the county in which the school district is located.

190           (a) Upon a finding by a preponderance of the evidence  
191 that a school district has knowingly violated the provisions  
192 of this section, a parent shall be awarded one thousand  
193 dollars per violation and the payment by the school district  
194 to the parent of all costs and reasonable attorney fees.

195           (b) Upon a finding by a preponderance of the evidence  
196 that a school district has purposely violated the provisions  
197 of this section, a parent shall be awarded ten thousand  
198 dollars per violation and the payment by the school district  
199 to the parent of all costs and reasonable attorney fees.

200           12. Any employee of a school district that discloses a  
201 violation of this section shall be protected from any manner  
202 of retaliation as set forth in section 105.055.

203           13. The department of elementary and secondary  
204 education may promulgate rules to implement the provisions  
205 of this section. Any rule or portion of a rule, as that  
206 term is defined in section 536.010, that is created under  
207 the authority delegated in this section shall become  
208 effective only if it complies with and is subject to all of  
209 the provisions of chapter 536 and, if applicable, section  
210 536.028. This section and chapter 536 are nonseverable and  
211 if any of the powers vested with the general assembly  
212 pursuant to chapter 536 to review, to delay the effective  
213 date, or to disapprove and annul a rule are subsequently  
214 held unconstitutional, then the grant of rulemaking  
215 authority and any rule proposed or adopted after August 28,  
216 2022, shall be invalid and void.

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

6 curriculum, source materials, and professional development  
7 materials.

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

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

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

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

17 (4) All source materials used to develop the documents  
18 used by a school district in their professional development  
19 materials as outlined in subdivision (3) of this subsection;

20 (5) All speakers and guests used by a school district  
21 in their professional development activities; and

22 (6) The cost associated with speakers and guests used  
23 by a school district in their professional development  
24 activities.

25 3. The commissioner of education shall establish an  
26 online form that each school district in this state shall  
27 complete with information required under subsection 2 of  
28 this section.

29 4. A school district shall submit any updates to the  
30 information outlined in subsection 2 of this section within  
31 five businesses days of the information changing.

32 5. The commissioner of education shall update the  
33 portal with the information required by this section to be  
34 submitted by each school district no less than weekly and  
35 shall ensure that the portal is maintained as the primary  
36 centralized source of information about the curriculum and  
37 instructional materials used by public school districts.

38           6. The department of elementary and secondary  
39 education may promulgate rules to implement this section.  
40 Any rule or portion of a rule, as that term is defined in  
41 section 536.010, that is created under the authority  
42 delegated in this section shall become effective only if it  
43 complies with and is subject to all of the provisions of  
44 chapter 536 and, if applicable, section 536.028. This  
45 section and chapter 536 are nonseverable and if any of the  
46 powers vested with the general assembly pursuant to chapter  
47 536 to review, to delay the effective date, or to disapprove  
48 and annul a rule are subsequently held unconstitutional,  
49 then the grant of rulemaking authority and any rule proposed  
50 or adopted after August 28, 2022, shall be invalid and void.

          Section B. Because of the need to ensure that parents  
2 are aware of the education their children are receiving for  
3 the upcoming school year, section A of this act is deemed  
4 necessary for the immediate preservation of the public  
5 health, welfare, peace, and safety, and is hereby declared  
6 to be an emergency act within the meaning of the  
7 constitution, and section A of this act shall be in full  
8 force and effect upon its passage and approval.

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