**South Carolina General Assembly**

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**H. 4555**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. May, Burns, Thayer, Dabney, Huggins, Bustos, M.M. Smith and McGarry

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Summary: Parent Bill of Rights Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

11/10/2021 House Prefiled

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**VERSIONS OF THIS BILL**

[11/10/2021](file:///p:\pprever\2021-22\4555_20211110.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “PARENTAL BILL OF RIGHTS” BY ADDING CHAPTER 23 TO TITLE 63 SO AS TO PROVIDE NECESSARY FINDINGS AND DEFINITIONS, TO PROHIBIT CERTAIN GOVERNMENT INFRINGEMENT ON THE FUNDAMENTAL RIGHTS OF PARENTS TO DIRECT THE UPBRINGING, EDUCATION, HEALTH CARE, AND MENTAL HEALTH CARE OF THEIR CHILDREN EXCEPT IN LIMITED CIRCUMSTANCES, TO RESERVE ALL PARENTAL RIGHTS TO THE PARENTS OF CHILDREN IN THIS STATE AND TO PROVIDE A NONEXHAUSTIVE LIST OF SUCH RIGHTS, TO PROVIDE RELATED REQUIREMENTS CONCERNING PUBLIC EDUCATION INSTITUTIONS AND HEALTH CARE PROVIDERS, TO PROVIDE PENALTIES FOR VIOLATIONS, AND TO MAKE THESE PROVISIONS APPLICABLE NOTWITHSTANDING CONTRARY PROVISIONS IN DECLARED STATES OF EMERGENCY; AND TO AMEND SECTION 63‑5‑340, RELATING TO THE AGE OF CONSENT FOR MINORS TO CERTAIN HEALTH CARE SERVICES, SO AS TO INCREASE THE AGE OF CONSENT TO EIGHTEEN.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be known and must be cited as the “Parental Bill of Rights”.

SECTION 2. Title 63 of the 1976 Code is amended by adding:

“CHAPTER 23

Parental Bill of Rights

Section 63‑23‑110. The General Assembly finds:

(1) parents have a fundamental right to direct the upbringing, education, and care of their children;

(2) important information relating to a child should not be withheld, either inadvertently or purposefully, from his parent, including information relating to the child’s health, well‑being, and education, while the child is in the custody of the school district; and

(3) it is necessary to establish a consistent mechanism for parents to be notified of information relating to the health and well‑being of their children.

Section 63‑23‑120. For purposes of this chapter:

(1) ‘Child’ means a person under the age of eighteen.

(2) ‘Health care provider’ means a physician, advanced practice registered nurse, or physician assistant licensed to practice in this State pursuant to Articles 1 and 7, Chapter 47, Title 40 and Article 1, Chapter 33, Title 40, respectively.

(3) ‘Instructional materials’ means any textbooks or other instructional material adopted by the State Board of Education or a local school district or school, and may include other materials used in the classroom, including workbooks and worksheets, handouts, software, applications, and any digital media made available to students.

(4) ‘Parent’ means a biological parent, adoptive parent, legal guardian, or other person with legal custody of a child.

Section 63‑23‑130. The State, political subdivisions of the State, public school districts, other governmental entities, and other institutions may not infringe on the fundamental rights of a parent to direct the upbringing, education, health care, and mental health care of his child without demonstrating that the action is:

(1) reasonable and necessary to achieve a compelling state interest; and

(2) narrowly tailored; and

(3) not otherwise served by a less restrictive means.

Section 63‑23‑140. (A) All parental rights are reserved to the parent of a child in this State without obstruction or interference from the State, political subdivisions of the State, public school districts, other governmental entities, or other institutions, including:

(1) the right to direct the education and care of his child;

(2) the right to direct the upbringing and the moral or religious training of his child;

(3) the right to apply to enroll his 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;

(4) the right to access and review all school records relating to his child;

(5) the right to make health care decisions for his child, unless otherwise prohibited by court order or State law;

(6) the right to access and review all medical records of his child, unless prohibited by court order or State law or if the parent is the subject of an investigation of a crime committed against the child and a law enforcement agency or official requests that the information not be released;

(7) the right to consent in writing before a biometric scan of his child is made, shared, or stored;

(8) the right to consent in writing before any record of his child’s blood or deoxyribonucleic acid (DNA) is created, stored, or shared, except as required by general law or authorized pursuant to a court order;

(9) the right to consent in writing before the State, a political subdivision of the State, or a public school district or public school makes a video or voice recording of his child unless the recording is made during or as part of a court proceeding or is made as part of a forensic interview in a criminal or Department of Social Services investigation or is to be used solely for:

(a) a safety demonstration, including the maintenance of order and discipline in the common areas of a school or on student transportation vehicles;

(b) a purpose related to a legitimate academic or extracurricular activity;

(c) a purpose related to regular classroom instruction;

(d) security or surveillance of buildings or grounds; or

(e) a photo identification card; and

(10) the right to be notified promptly if an employee of the State, a political subdivision of the State, a public school district or public school, another governmental entity, or another institution suspects that a criminal offense has been committed against his child, unless the incident has first been reported to law enforcement or the Department of Social Services and notifying the parent would impede the investigation.

(B) This section does not:

(a) authorize a parent of a child in this State to engage in conduct that is unlawful or to abuse or neglect his child in violation of general law;

(b) condone, authorize, approve, or apply to a parental action or decision that would end life;

(c) prohibit a court of competent jurisdiction, law enforcement officer, or employees of a governmental agency that is responsible for child welfare from acting in his official capacity within the reasonable and prudent scope of his authority; or

(d) prohibit a court of competent jurisdiction from issuing an order that is otherwise permitted by law.

(C) An employee of the State, a political subdivision of the State, a public school district, or another governmental entity who encourages or coerces, or attempts to encourage or coerce, a child to withhold information from his parent may be subject to disciplinary action.

(D) A parent of a child in this State has inalienable rights that are more comprehensive than those listed in this chapter unless the rights have been legally waived or terminated. This chapter does not prescribe all rights to a parent of a child in this State. Unless required by law, the rights of a parent of a child in this State may not be limited or denied. This chapter may not be construed to apply to a parental action or decision that would end life.

Section 63‑23‑150. (A) In addition to the requirements of Chapter 28, Title 59, each district school board shall, in consultation with parents, teachers, and administrators, develop and adopt a policy to promote parental involvement in the public school system. The policy must include:

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

(2) a procedure for a parent to learn about his child’s course of study, including the source of any supplemental educational materials;

(3) procedures for a parent to object to instructional materials and other materials used in the classroom. Such objections may be based on beliefs regarding morality, sex, and religion or the belief that such materials are harmful;

(4) procedures for a parent to withdraw his child from any portion of the school district’s comprehensive health education program required pursuant to Chapter 32, Title 59 that relates to sex education or instruction in acquired immune deficiency syndrome education or any instruction regarding sexuality if the parent provides a written objection to his child’s participation. The procedures must provide for a parent to be notified in advance of such course content so that he may withdraw his child from those portions of the course;

(5) procedures for a parent to learn about the nature and purpose of clubs and activities offered at his child’s school, including those that are extracurricular or part of the school curriculum;

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

(a) the right to opt his child out of any portion of the school district’s comprehensive health education required pursuant to Chapter 32, Title 59 that relates to sex education instruction in acquired immune deficiency syndrome education or any instruction regarding sexuality;

(b) a plan to disseminate information about school choice options, including open enrollment;

(c) in accordance with Section 44‑29‑180, the right of a parent to exempt his child from immunizations;

(d) the right of a parent to review statewide, standardized assessment results;

(e) the right of a parent to enroll his child in gifted or special education programs;

(f) the right of a parent to inspect school district instructional materials;

(g) the right of a parent to access information relating to the school district’s policies for promotion or retention, including high school graduation requirements;

(h) the right of a parent to receive a school report card and be informed of his child’s attendance requirements;

(i) the right of a parent to access information relating to the state public education system, state standards, report card requirements, attendance requirements, and instructional material requirements;

(j) the right of a parent to participate in parent‑teacher associations and organizations that are sanctioned by a district school board or the State Department of Education; and

(k) the right of a parent to opt out of any district‑level data collection relating to his child not required by law.

(B) A district school board may provide the information required in this section electronically or post such information on its website.

(C) A parent may request, in writing, from the school district superintendent the information required under this section. Within ten days, the school district superintendent must provide the information to the parent. If the school district superintendent denies a parent’s request for information or does not respond to the parent’s request within ten days, the parent may appeal the denial to the district school board. The district school board must place a parent’s appeal on the agenda for its next public meeting. If it is too late for a parent’s appeal to appear on the next agenda, the appeal must be included on the agenda for the subsequent meeting.

Section 63‑23‑160. (A) Except as otherwise provided by court order or State law, a health care provider may not provide or solicit or arrange to provide health care services or prescribe medicinal drugs or biologics to a child without first obtaining written parental consent.

(B) Except as otherwise provided by court order or State law, a health care provider may not allow a medical procedure to be performed on a child in its facility without first obtaining written parental consent.

(C) This section does not apply to an abortion, which is governed by Chapter 41, Title 44.

(D) A health care practitioner or other person who violates this section is:

(1) subject to disciplinary action by the relevant professional licensing board; and

(2) guilty of a misdemeanor punishable by a fine of one thousand dollars, not more than thirty days in jail, or both.

Section 63‑23‑170. The provisions of this chapter apply notwithstanding any conflicting temporary provision in a declaration of a state of emergency by the Governor or a health care state of emergency declared by the Department of Health and Environmental Control.”

SECTION 3. Section 63‑5‑340 of the 1976 Code is amended to read:

“Section 63‑5‑340. Any minor who has reached the age of ~~sixteen~~ eighteen years may consent to any health services from a person authorized by law to render the particular health service for himself and the consent of no other person shall be necessary unless such involves an operation which shall be performed only if such is essential to the health or life of such child in the opinion of the performing physician and a consultant physician if one is available.”

SECTION 4. This act takes effect upon approval by the Governor.

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