

House Engrossed Senate Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 307

SENATE BILL 1309

AN ACT

AMENDING TITLE 1, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 6; AMENDING SECTION 15-102, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 22, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2272; RELATING TO PARENTS' RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 1, Arizona Revised Statutes, is amended by adding
3 chapter 6, to read:

4 CHAPTER 6

5 PARENTS' RIGHTS

6 ARTICLE 1. PARENTS' BILL OF RIGHTS

7 1-601. Parents' rights protected

8 A. THE LIBERTY OF PARENTS TO DIRECT THE UPBRINGING, EDUCATION, HEALTH
9 CARE AND MENTAL HEALTH OF THEIR CHILDREN IS A FUNDAMENTAL RIGHT.

10 B. THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER
11 GOVERNMENTAL ENTITY SHALL NOT INFRINGE ON THESE RIGHTS WITHOUT DEMONSTRATING
12 THAT THE COMPELLING GOVERNMENTAL INTEREST AS APPLIED TO THE CHILD INVOLVED IS
13 OF THE HIGHEST ORDER, IS NARROWLY TAILORED AND IS NOT OTHERWISE SERVED BY A
14 LESS RESTRICTIVE MEANS.

15 1-602. Parents' bill of rights; definition

16 A. ALL PARENTAL RIGHTS ARE RESERVED TO A PARENT OF A MINOR CHILD
17 WITHOUT OBSTRUCTION OR INTERFERENCE FROM THIS STATE, ANY POLITICAL
18 SUBDIVISION OF THIS STATE, ANY OTHER GOVERNMENTAL ENTITY OR ANY OTHER
19 INSTITUTION, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING RIGHTS:

20 1. THE RIGHT TO DIRECT THE EDUCATION OF THE MINOR CHILD.

21 2. ALL RIGHTS OF PARENTS IDENTIFIED IN TITLE 15, INCLUDING THE RIGHT
22 TO ACCESS AND REVIEW ALL RECORDS RELATING TO THE MINOR CHILD.

23 3. THE RIGHT TO DIRECT THE UPBRINGING OF THE MINOR CHILD.

24 4. THE RIGHT TO DIRECT THE MORAL OR RELIGIOUS TRAINING OF THE MINOR
25 CHILD.

26 5. THE RIGHT TO MAKE HEALTH CARE DECISIONS FOR THE MINOR CHILD,
27 INCLUDING RIGHTS PURSUANT TO SECTIONS 15-873, 36-2271 AND 36-2272, UNLESS
28 OTHERWISE PROHIBITED BY LAW.

29 6. THE RIGHT TO ACCESS AND REVIEW ALL MEDICAL RECORDS OF THE MINOR
30 CHILD UNLESS OTHERWISE PROHIBITED BY LAW OR THE PARENT IS THE SUBJECT OF AN
31 INVESTIGATION OF A CRIME COMMITTED AGAINST THE MINOR CHILD AND A LAW
32 ENFORCEMENT OFFICIAL REQUESTS THAT THE INFORMATION NOT BE RELEASED.

33 7. THE RIGHT TO CONSENT IN WRITING BEFORE A BIOMETRIC SCAN OF THE
34 MINOR CHILD IS MADE PURSUANT TO SECTION 15-109.

35 8. THE RIGHT TO CONSENT IN WRITING BEFORE ANY RECORD OF THE MINOR
36 CHILD'S BLOOD OR DEOXYRIBONUCLEIC ACID IS CREATED, STORED OR SHARED, EXCEPT
37 AS REQUIRED BY SECTION 36-694, OR BEFORE ANY GENETIC TESTING IS CONDUCTED ON
38 THE MINOR CHILD PURSUANT TO SECTION 12-2803 UNLESS AUTHORIZED PURSUANT TO
39 SECTION 13-610 OR A COURT ORDER.

40 9. THE RIGHT TO CONSENT IN WRITING BEFORE THE STATE OR ANY OF ITS
41 POLITICAL SUBDIVISIONS MAKES A VIDEO OR VOICE RECORDING OF THE MINOR CHILD,
42 UNLESS THE VIDEO OR VOICE RECORDING IS MADE DURING OR AS A PART OF A COURT
43 PROCEEDING, DURING OR AS PART OF A FORENSIC INTERVIEW IN A CRIMINAL OR CHILD
44 PROTECTIVE SERVICES INVESTIGATION OR TO BE USED SOLELY FOR ANY OF THE
45 FOLLOWING:

1 (a) SAFETY DEMONSTRATIONS, INCLUDING THE MAINTENANCE OF ORDER AND
2 DISCIPLINE IN THE COMMON AREAS OF A SCHOOL OR ON PUPIL TRANSPORTATION
3 VEHICLES.

4 (b) A PURPOSE RELATED TO A LEGITIMATE ACADEMIC OR EXTRACURRICULAR
5 ACTIVITY.

6 (c) A PURPOSE RELATED TO REGULAR CLASSROOM INSTRUCTION.

7 (d) SECURITY OR SURVEILLANCE OF BUILDINGS OR GROUNDS.

8 (e) A PHOTO IDENTIFICATION CARD.

9 10. THE RIGHT TO BE NOTIFIED PROMPTLY IF AN EMPLOYEE OF THIS STATE, ANY
10 POLITICAL SUBDIVISION OF THIS STATE, ANY OTHER GOVERNMENTAL ENTITY OR ANY
11 OTHER INSTITUTION SUSPECTS THAT A CRIMINAL OFFENSE HAS BEEN COMMITTED AGAINST
12 THE MINOR CHILD BY SOMEONE OTHER THAN A PARENT, UNLESS THE INCIDENT HAS FIRST
13 BEEN REPORTED TO LAW ENFORCEMENT AND NOTIFICATION OF THE PARENT WOULD IMPEDE
14 A LAW ENFORCEMENT OR CHILD PROTECTIVE SERVICES INVESTIGATION. THIS PARAGRAPH
15 DOES NOT CREATE ANY NEW OBLIGATION FOR SCHOOL DISTRICTS AND CHARTER SCHOOLS
16 TO REPORT MISCONDUCT BETWEEN STUDENTS AT SCHOOL, SUCH AS FIGHTING OR
17 AGGRESSIVE PLAY, THAT ARE ROUTINELY ADDRESSED AS STUDENT DISCIPLINARY MATTERS
18 BY THE SCHOOL.

19 11. THE RIGHT TO OBTAIN INFORMATION ABOUT A CHILD PROTECTIVE SERVICES
20 INVESTIGATION INVOLVING THE PARENT PURSUANT TO SECTION 8-807.

21 B. THIS SECTION DOES NOT AUTHORIZE OR ALLOW A PARENT TO ENGAGE IN
22 CONDUCT THAT IS UNLAWFUL OR TO ABUSE OR NEGLECT A CHILD IN VIOLATION OF THE
23 LAWS OF THIS STATE. THIS SECTION DOES NOT PROHIBIT COURTS, LAW ENFORCEMENT
24 OFFICERS OR EMPLOYEES OF A GOVERNMENT AGENCY RESPONSIBLE FOR CHILD WELFARE
25 FROM ACTING IN THEIR OFFICIAL CAPACITY WITHIN THE SCOPE OF THEIR AUTHORITY.
26 THIS SECTION DOES NOT PROHIBIT A COURT FROM ISSUING AN ORDER THAT IS
27 OTHERWISE PERMITTED BY LAW.

28 C. ANY ATTEMPT TO ENCOURAGE OR COERCE A MINOR CHILD TO WITHHOLD
29 INFORMATION FROM THE CHILD'S PARENT SHALL BE GROUNDS FOR DISCIPLINE OF AN
30 EMPLOYEE OF THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR ANY OTHER
31 GOVERNMENTAL ENTITY, EXCEPT FOR LAW ENFORCEMENT PERSONNEL.

32 D. UNLESS THOSE RIGHTS HAVE BEEN LEGALLY WAIVED OR LEGALLY TERMINATED,
33 PARENTS HAVE INALIENABLE RIGHTS THAT ARE MORE COMPREHENSIVE THAN THOSE LISTED
34 IN THIS SECTION. THIS CHAPTER DOES NOT PRESCRIBE ALL RIGHTS OF PARENTS.
35 UNLESS OTHERWISE REQUIRED BY LAW, THE RIGHTS OF PARENTS OF MINOR CHILDREN
36 SHALL NOT BE LIMITED OR DENIED.

37 E. FOR THE PURPOSES OF THIS SECTION, "PARENT" MEANS THE NATURAL OR
38 ADOPTIVE PARENT OR LEGAL GUARDIAN OF A MINOR CHILD.

39 Sec. 2. Section 15-102, Arizona Revised Statutes, is amended to read:
40 15-102. Parental involvement in the school; definition

41 A. The governing board, in consultation with parents, teachers and
42 administrators, shall develop and adopt a policy to promote the involvement
43 of parents and guardians of children enrolled in the schools within the
44 school district, including:

1 1. A plan for parent participation in the schools which is designed to
2 improve parent and teacher cooperation in such areas as homework, attendance
3 and discipline.

4 2. Procedures by which parents may learn about the course of study for
5 their children and review learning materials, INCLUDING THE SOURCE OF ANY
6 SUPPLEMENTAL EDUCATIONAL MATERIALS.

7 3. Procedures by which parents who object to any learning material or
8 activity on the basis that it is harmful may withdraw their children from the
9 activity or from the class or program in which the material is used.
10 Objection to a learning material or activity on the basis that it is harmful
11 includes objection to a material or activity because it questions beliefs or
12 practices in sex, morality or religion.

13 4. IF A SCHOOL DISTRICT OFFERS ANY SEX EDUCATION CURRICULA PURSUANT TO
14 SECTION 15-711 OR 15-716 OR PURSUANT TO ANY RULES ADOPTED BY THE STATE BOARD
15 OF EDUCATION, PROCEDURES TO PROHIBIT A SCHOOL DISTRICT FROM PROVIDING SEX
16 EDUCATION INSTRUCTION TO A PUPIL UNLESS THE PUPIL'S PARENT PROVIDES WRITTEN
17 PERMISSION FOR THE CHILD TO PARTICIPATE IN THE SEX EDUCATION CURRICULA.

18 5. PROCEDURES BY WHICH PARENTS WILL BE NOTIFIED IN ADVANCE OF AND
19 GIVEN THE OPPORTUNITY TO WITHDRAW THEIR CHILDREN FROM ANY INSTRUCTION OR
20 PRESENTATIONS REGARDING SEXUALITY IN COURSES OTHER THAN FORMAL SEX EDUCATION
21 CURRICULA.

22 6. PROCEDURES BY WHICH PARENTS MAY LEARN ABOUT THE NATURE AND PURPOSE
23 OF CLUBS AND ACTIVITIES THAT ARE PART OF THE SCHOOL CURRICULUM,
24 EXTRACURRICULAR CLUBS AND ACTIVITIES THAT HAVE BEEN APPROVED BY THE SCHOOL.

25 7. PROCEDURES BY WHICH PARENTS MAY LEARN ABOUT PARENTAL RIGHTS AND
26 RESPONSIBILITIES UNDER THE LAWS OF THIS STATE, INCLUDING THE FOLLOWING:

27 (a) THE RIGHT TO OPT IN TO A SEX EDUCATION CURRICULUM IF ONE IS
28 PROVIDED BY THE SCHOOL DISTRICT.

29 (b) OPEN ENROLLMENT RIGHTS PURSUANT TO SECTION 15-816.01.

30 (c) THE RIGHT TO OPT OUT OF ASSIGNMENTS PURSUANT TO THIS SECTION.

31 (d) THE RIGHT TO OPT OUT OF IMMUNIZATIONS PURSUANT TO SECTION 15-873.

32 (e) THE PROMOTION REQUIREMENTS PRESCRIBED IN SECTION 15-701.

33 (f) THE MINIMUM COURSE OF STUDY AND COMPETENCY REQUIREMENTS FOR
34 GRADUATION FROM HIGH SCHOOL PRESCRIBED IN SECTION 15-701.01.

35 (g) THE RIGHT TO OPT OUT OF INSTRUCTION ON THE ACQUIRED IMMUNE
36 DEFICIENCY SYNDROME PURSUANT TO SECTION 15-716.

37 (h) THE RIGHT TO REVIEW TEST RESULTS PURSUANT TO SECTION 15-743.

38 (i) THE RIGHT TO PARTICIPATE IN GIFTED PROGRAMS PURSUANT TO SECTION
39 15-779.01

40 (j) THE RIGHT TO ACCESS INSTRUCTIONAL MATERIALS PURSUANT TO SECTION
41 15-730.

42 (k) THE RIGHT TO RECEIVE A SCHOOL REPORT CARD PURSUANT TO SECTION
43 15-746.

44 (l) THE ATTENDANCE REQUIREMENTS PRESCRIBED IN SECTIONS 15-802, 15-803
45 AND 15-821.

1 (m) THE RIGHT TO PUBLIC REVIEW OF COURSES OF STUDY AND TEXTBOOKS
2 PURSUANT TO SECTION 15-721.

3 (n) THE RIGHT TO BE EXCUSED FROM SCHOOL ATTENDANCE FOR RELIGIOUS
4 PURPOSES PURSUANT TO SECTION 15-806.

5 (o) POLICIES RELATED TO PARENTAL INVOLVEMENT PURSUANT TO THIS SECTION.

6 (p) THE RIGHT TO SEEK MEMBERSHIP ON SCHOOL COUNCILS PURSUANT TO
7 SECTION 15-351.

8 (q) THE RIGHT TO PARTICIPATE IN A PARENTAL SATISFACTION SURVEY
9 PURSUANT TO SECTION 15-353.

10 (r) INFORMATION ABOUT THE STUDENT ACCOUNTABILITY INFORMATION SYSTEM AS
11 PRESCRIBED IN SECTION 15-1042.

12 (s) THE RIGHT TO ACCESS THE FAILING SCHOOLS TUTORING FUND PURSUANT TO
13 SECTION 15-241.

14 B. The policy adopted by the governing board pursuant to this section
15 may also include the following components:

16 1. A plan by which parents will be made aware of the district's
17 parental involvement policy and this section, including:

18 (a) Rights under the family educational rights and privacy act of 1974
19 (20 United States Code section 1232g) relating to access to children's
20 official records.

21 (b) The parent's right to inspect the school district policies and
22 curriculum.

23 2. Efforts to encourage the development of parenting skills.

24 3. The communication to parents of techniques designed to assist the
25 child's learning experience in the home.

26 4. Efforts to encourage access to community and support services for
27 children and families.

28 5. The promotion of communication between the school and parents
29 concerning school programs and the academic progress of the parents'
30 children.

31 6. Identifying opportunities for parents to participate in and support
32 classroom instruction at the school.

33 7. Efforts to SUPPORT, with appropriate training, ~~support~~ parents as
34 shared decision makers and to encourage membership on school councils.

35 8. The recognition of the diversity of parents and the development of
36 guidelines that promote widespread parental participation and involvement in
37 the school at various levels.

38 9. The development of preparation programs and specialized courses for
39 certificated employees and administrators that promote parental involvement.

40 10. The development of strategies and programmatic structures at
41 schools to encourage and enable parents to participate actively in their
42 children's education.

43 C. THE GOVERNING BOARD MAY ADOPT A POLICY TO PROVIDE TO PARENTS THE
44 INFORMATION REQUIRED BY THIS SECTION IN AN ELECTRONIC FORM.

1 ~~C.~~ D. A parent shall submit a written request for information
2 pursuant to this section during regular business hours to either the school
3 principal at the school site or the superintendent of the school district at
4 the office of the school district. Within ten days of receiving the request
5 for information, the school principal or the superintendent of the school
6 district shall either deliver the requested information to the parent or
7 submit to the parent a written explanation of the reasons for the denial of
8 the requested information. If the request for information is denied or the
9 parent does not receive the requested information within fifteen days after
10 submitting the request for information, the parent may submit a written
11 request for the information to the school district governing board, which
12 shall formally consider the request at the next scheduled public meeting of
13 the governing board ~~that~~ IF THE REQUEST CAN BE PROPERLY NOTICED ON THE
14 agenda. IF THE REQUEST CANNOT BE PROPERLY NOTICED ON THE AGENDA, THE
15 GOVERNING BOARD SHALL FORMALLY CONSIDER THE REQUEST AT THE NEXT SUBSEQUENT
16 PUBLIC MEETING OF THE GOVERNING BOARD.

17 ~~D.~~ E. For the purposes of this section, "parent" means the NATURAL OR
18 ADOPTIVE parent or ~~person who has custody of the child~~ LEGAL GUARDIAN OF A
19 MINOR CHILD.

20 Sec. 3. Title 36, chapter 22, article 1, Arizona Revised Statutes, is
21 amended by adding section 36-2272, to read:

22 36-2272. Consent of parent required for mental health screening
23 or treatment of minors; exception; violation;
24 classification; definition

25 A. EXCEPT AS OTHERWISE PROVIDED BY LAW OR A COURT ORDER, NO PERSON,
26 CORPORATION, ASSOCIATION, ORGANIZATION OR STATE-SUPPORTED INSTITUTION, OR ANY
27 INDIVIDUAL EMPLOYED BY ANY OF THESE ENTITIES, MAY PROCURE, SOLICIT TO
28 PERFORM, ARRANGE FOR THE PERFORMANCE OF OR PERFORM MENTAL HEALTH SCREENING IN
29 A NONCLINICAL SETTING OR MENTAL HEALTH TREATMENT ON A MINOR WITHOUT FIRST
30 OBTAINING THE WRITTEN OR ORAL CONSENT OF A PARENT OR A LEGAL CUSTODIAN OF THE
31 MINOR CHILD. IF THE PARENTAL CONSENT IS GIVEN THROUGH TELEMEDICINE, THE
32 HEALTH PROFESSIONAL MUST VERIFY THE PARENT'S IDENTITY AT THE SITE WHERE THE
33 CONSENT IS GIVEN.

34 B. THIS SECTION DOES NOT APPLY WHEN AN EMERGENCY EXISTS THAT REQUIRES
35 A PERSON TO PERFORM MENTAL HEALTH SCREENING OR PROVIDE MENTAL HEALTH
36 TREATMENT TO PREVENT SERIOUS INJURY TO OR SAVE THE LIFE OF A MINOR CHILD.

37 C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1
38 MISDEMEANOR.

39 D. FOR THE PURPOSES OF THIS SECTION, "PARENT" MEANS THE PARENT OR
40 LEGAL GUARDIAN OF A MINOR CHILD.

41 Sec. 4. Construction

42 This act does not prescribe all rights of parents and does not limit a
43 parent's or legal guardian's rights in any manner.

44 Sec. 5. Short title

45 This act may be cited as the "Parents' Bill of Rights Act".

APPROVED BY THE GOVERNOR MAY 10, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2010.

Passed the House April 26, 2010,

by the following vote: 33 Ayes,

24 Nays, 3 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate March 22, 2010,

by the following vote: 16 Ayes,

13 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this
_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1309

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 27, 2010

by the following vote: 10 Ayes,
14 Nays, 0 Not Voting

Robert L. Berry
President of the Senate

Charmine Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

28 day of April, 20 10

at 9:10 o'clock A. M.

Micole Bendie
Secretary to the Governor

Approved this 10 day of

May, 2010

at 11:20 o'clock A. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 10th day of May, 20 10

at 4:10 o'clock P. M.

Ken Blum
Secretary of State