

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

HOUSE BILL 1827

5 By: Representative Lowery  
6

## For An Act To Be Entitled

8 AN ACT CREATING THE PARENTS' BILL OF RIGHTS;  
9 PROHIBITING CERTAIN ACTIONS BY GOVERNMENTAL ENTITIES;  
10 SPECIFYING RIGHTS RESERVED TO A PARENT OR CUSTODIAN;  
11 CLARIFYING THE OBLIGATIONS OF SCHOOL DISTRICTS AND  
12 CHARTER SCHOOLS; PROHIBITING CERTAIN ACTIONS WITHOUT  
13 CONSENT OF A PARENT OR GUARDIAN; AND FOR OTHER  
14 PURPOSES.  
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## Subtitle

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18 CREATING THE PARENTS' BILL OF RIGHTS;  
19 PROHIBITING CERTAIN ACTIONS; SPECIFYING  
20 RIGHTS; CLARIFYING THE OBLIGATIONS OF  
21 SCHOOL DISTRICTS AND CHARTER SCHOOLS; AND  
22 PROHIBITING CERTAIN ACTIONS WITHOUT  
23 CONSENT OF A PARENT OR CUSTODIAN.  
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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28 SECTION 1. Arkansas Code Title 9, Subtitle 3, is amended to add an  
29 additional chapter to read as follows:

### Chapter 35

### Parents' Bill of Rights

#### 9-35-101. Title.

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33 This chapter shall be known and may be cited as the "Parents' Bill of  
34 Rights Act".  
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#### 9-35-302. Definitions.

  
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1 As used in this chapter:

2 (1) "Custodian" means the custodial parent, legal guardian, or  
 3 lawful custodian of a minor child as determined by a court of competent  
 4 jurisdiction in the state;

5 (2) "Parent" means a natural or adoptive parent of a minor child  
 6 as determined by a court of competent jurisdiction in the state;

7 (3) "Person" means a natural person, corporation, association,  
 8 copartnership, or one (1) or more individuals; and

9 (4) "State" means the State of Arkansas, a political subdivision  
 10 of the State of Arkansas, or other governmental entity of the State of  
 11 Arkansas.

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 13 9-35-103. Fundamental rights.

14 (a)(1) A parent or custodian has a fundamental right to direct the  
 15 upbringing, education, health care, and mental health of his or her minor  
 16 child, including without limitation the right to:

17 (A) Direct the education of the minor child;

18 (B) Review all school records relating to the minor child  
 19 and other rights under Title 6 of the Arkansas Code;

20 (C) Direct the moral or religious training of the minor  
 21 child;

22 (D) Make healthcare decisions for the minor child, unless  
 23 otherwise prohibited by law; and

24 (E) Review the medical records of the minor child unless:

25 (i) Otherwise prohibited by law; or

26 (ii) The parent is the subject of an investigation  
 27 of a crime committed against the minor child and a law enforcement official  
 28 requests that the information not be released.

29 (b) The state shall not infringe on the fundamental rights of a parent  
 30 without demonstrating that the compelling governmental interest as applied to  
 31 the child involved is:

32 (1) Of the highest order;

33 (2) Narrowly tailored; and

34 (3) Not otherwise served by a less restrictive means.

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 36 9-35-104. Biometric scan – Deoxyribonucleic acid.

1 A parent must consent in writing before either of the following is  
2 created, shared, or stored:

3 (1) A biometric scan of the minor child; or

4 (2)(A) A record of the minor child's blood or deoxyribonucleic  
5 acid.

6 (B) When the record of the minor child's blood or  
7 deoxyribonucleic acid is authorized under § 20-16-507 or pursuant to a court  
8 order, a parent's written consent is not required to create, share, or store  
9 the record of a child's blood or deoxyribonucleic acid.

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11 9-35-105. Video – Picture – Audio.

12 A parent must consent in writing before the state takes a video,  
13 picture, or voice recording of the minor child unless:

14 (1) The video, picture, or voice recording is made during or as  
15 a part of:

16 (A) A court proceeding;

17 (B) A law enforcement investigation; or

18 (C) An interview in a criminal investigation or Department  
19 of Human Services investigation; or

20 (2) The video, picture, or voice recording is used solely for  
21 the following:

22 (A) A safety demonstration;

23 (B) Surveillance of state buildings or grounds;

24 (C) A photo identification card; or

25 (D) A school:

26 (i) To maintain order and discipline in the common  
27 areas of a school or on student transportation vehicles;

28 (ii) For a purpose related to a legitimate academic  
29 or extracurricular activity; or

30 (iii) For a purpose related to regular classroom  
31 instruction.

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33 9-35-106. Criminal offense – Notice.

34 (a) A parent or custodian shall be notified promptly if an employee of  
35 this state suspects that a criminal offense has been committed against a  
36 minor child by someone other than a parent or custodian.

1       (b) A parent or custodian shall not be notified when the criminal  
2 offense is reported to law enforcement and the notification of the parent  
3 would impede a law enforcement or Department of Human Services investigation.

4       (c) This section does not create any new obligation for school  
5 districts and charter schools to report misconduct between students at  
6 school, such as fighting or aggressive play, that is routinely addressed as a  
7 student disciplinary matter by the school.

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9       9-35-107. School procedure.

10       (a) The school district board of directors shall consult with parents,  
11 teachers, and school administrators to develop and adopt a policy to promote  
12 the involvement of parents of children enrolled in the schools within the  
13 school district, including without limitation a procedure:

14               (1) For parent participation in the schools that is designed to  
15 improve parent and teacher cooperation, including without limitation the  
16 following areas:

17                       (A) Homework;

18                       (B) Attendance; and

19                       (C) Discipline;

20               (2) To educate a parent or custodian about the course of study  
21 for his or her child and review learning materials, including the source of  
22 supplemental educational materials;

23               (3)(A) For a parent or custodian who objects to learning  
24 material or an activity on the basis that it is harmful to withdraw his or  
25 her child from the activity or from the class program in which the material  
26 is used.

27                       (B) An objection to a learning material or activity by a  
28 parent or custodian on the basis that it is harmful may include an objection  
29 to a material or activity because it questions beliefs or practices in sex,  
30 morality, or religion;

31               (4)(A) For a parent or custodian to opt out his or her child  
32 from the sex education curricula provided by a school.

33                       (B) A parent's objection shall be in writing;

34               (5) To notify a parent or custodian in advance of and give the  
35 parent or custodian an opportunity to withdraw his or her child from  
36 instruction or presentation regarding sexuality in courses other than formal

1 sex education curricula.

2 (6) By which a parent or custodian may learn about the nature  
 3 and purpose of:

4 (A) A club and activity that is part of the school  
 5 curriculum; and

6 (B) An extracurricular club and activity that has been  
 7 approved by the school; and

8 (7) For a parent to learn about parental rights and obligations,  
 9 including without limitation the following:

10 (A) The right to opt out of a sex education curriculum if  
 11 one is provided by the school district;

12 (B) Open enrollment rights;

13 (C) The right to opt out of assignments under this  
 14 section;

15 (D) The right to be exempt from immunization under the  
 16 rules promulgated by the State Board of Health under § 6-18-702;

17 (E) The promotion requirements under §§ 6-15-2004 and 6-  
 18 15-2004;

19 (F) The minimum course of study and competency  
 20 requirements for graduation from high school designated by the State Board of  
 21 Education;

22 (G) The right to opt out of instruction on acquired immune  
 23 deficiency syndrome;

24 (H) The right to review test results;

25 (I) The right to participate in a gifted program under §  
 26 6-42-101 et seq.;

27 (J) The right to inspect instructional materials used in  
 28 connection with a research or experimentation program or project;

29 (K) The right to receive a school report card;

30 (L) The attendance requirements under § 6-18-201 et seq.;

31 (M) The right to public review of a course of study and  
 32 textbook;

33 (N) The right to be excused from school attendance for  
 34 religious purposes;

35 (O) Policies related to parental involvement under this  
 36 section;

1           (P) The right to participate in a parent-teacher  
2 association and organization that is sanctioned by the board of education of  
3 a school district; and

4           (Q) The right to opt out of any data collection instrument  
5 at the district level that would capture data for inclusion in the state  
6 longitudinal student data system except what is necessary for establishing a  
7 student's public school record or to comply with federal law.

8           (b) The school district board of directors may adopt a policy to  
9 provide to parents the information required by this section in an electronic  
10 form.

11           (c)(1) A parent or custodian shall submit a written request for  
12 information under this section during regular business hours to either the  
13 school principal at the school site or the superintendent of the school  
14 district at the office of the school district.

15           (2)(A) Within ten (10) days of receiving the request for  
16 information, the school principal or the superintendent of the school  
17 district shall either deliver the requested information to the parent or  
18 submit to the parent a written explanation of the reasons for the denial of  
19 the requested information.

20           (B)(i) If the request for information is denied or the  
21 parent or custodian does not receive the requested information within fifteen  
22 (15) days after submitting the request for information, the parent or  
23 custodian may submit a written request for the information to the school  
24 district board of directors.

25           (ii)(a) The school district board of directors shall  
26 consider the request at the next scheduled public meeting of the school  
27 district board of directors if the request can be properly noticed as an  
28 agenda item.

29           (b) If the request cannot be properly noticed  
30 and placed on the agenda, the school district board of directors shall  
31 consider the request at the next public meeting of the school district board  
32 of directors.

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34           9-35-108. Surgical procedure – Prescription drug – Physical  
35 examination – Mental health evaluation.

36           (a) Except as otherwise provided by law, a person without written

1 consent from a parent or custodian may not:

2 (1) Prescribe a prescription drug; or

3 (2) Procure, solicit to perform, arrange for the performance of,  
4 or perform on a minor:

5 (A) A surgical procedure; or

6 (B) A physical examination.

7 (b) A hospital as defined under § 20-9-201 shall obtain written  
8 consent before permitting a surgical procedure to be performed on a minor in  
9 its facilities.

10 (c) Subsections (a) and (b) of this section do not apply when:

11 (1) There has been a diligent search for the parent or custodian  
12 and the parent or custodian cannot be located or contacted;

13 (2) The surgical procedure is an abortion, which is governed by  
14 Title 20 of the Arkansas Code; or

15 (3) A physician determines that:

16 (A) An emergency exists; and

17 (B) It is necessary to perform the surgical procedure for  
18 the treatment of an injury, drug abuse, or to save the life of the patient.

19 (d)(1) Except as otherwise provided by law or a court order, a person  
20 without written consent from a parent or custodian may not procure, solicit  
21 to perform, or arrange for the performance of or perform in a clinical or  
22 nonclinical setting:

23 (A) A mental health evaluation; or

24 (B) Mental health treatment.

25 (2) If the parental or custodial consent is given through  
26 telemedicine, the health professional must verify the identity of the parent  
27 or custodian at the site where the consent is given.

28 (3) This subsection does not apply when an emergency exists that  
29 requires a person to perform a mental health screening or provide mental  
30 health intervention to prevent serious injury to or save the life of a minor  
31 child.

32 (e) A person who violates subsection (a), (b), or (d) of this section  
33 is guilty of a misdemeanor, punishable by a fine of not more than one  
34 thousand dollars (\$1,000) or imprisonment of not more than one (1) year, or  
35 both.

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