

Amendment - 1st Reading-white - Requested by: John Fuller - (S) Education and Cultural Resources

- 2025

69th Legislature 2025

Drafter: Pad McCracken,

SB0299.001.001

SENATE BILL NO. 299

INTRODUCED BY J. FULLER, B. MITCHELL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING PARENTAL INVOLVEMENT IN A CHILD'S EDUCATION; REQUIRING A SCHOOL BOARD TO ADOPT A POLICY PROVIDING FULL ACCESS TO A PARENT TO INFORMATION REGARDING THE PARENT'S CHILD; REQUIRING AT LEAST 5 DAYS' NOTICE AND CONSENT FROM A PARENT BEFORE PROVIDING CERTAIN INSTRUCTION OR PRESENTATIONS TO A CHILD; REQUIRING A PROCEDURE FOR A PARENT TO OBJECT TO CERTAIN INSTRUCTION OR PRESENTATIONS; REQUIRING A SCHOOL BOARD TO ADOPT A POLICY FOR PARENTS TO SUBMIT CERTAIN COMPLAINTS; AUTHORIZING THE ATTORNEY GENERAL, SUPERINTENDENT OF PUBLIC INSTRUCTION, OR COUNTY ATTORNEY TO BRING A SUIT AGAINST A SCHOOL DISTRICT FOR CERTAIN VIOLATIONS; PROVIDING REMEDIES; AMENDING SECTIONS 40-6-701, 40-6-703, AND 40-6-707, MCA; REPEALING SECTION 40-6-708, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-6-701, MCA, is amended to read:

"40-6-701. Interference with fundamental parental rights restricted -- cause of action. (1) A government entity may not interfere with the fundamental right of parents to direct the upbringing, education, health care, and mental health of their children unless the government entity demonstrates that the interference:

(a) furthers a compelling governmental interest; and
(b) is narrowly tailored and is the least restrictive means available for the furthering of the compelling governmental interest.

(2) All fundamental parental rights are exclusively reserved to the parent of a child without obstruction or interference by a government entity, including but not limited to the rights and responsibilities to

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(d) "Parent" means a biological parent of a child, an adoptive parent of a child, or an individual who has been granted the exclusive right and authority over the welfare of a child under state law.

(e) "Substantial burden" means an action that directly or indirectly constrains, inhibits, curtails, or denies the right of a parent to direct the upbringing, education, health care, and mental health of the parent's child. The term includes but is not limited to:

(i) withholding benefits;

(ii) assessing criminal, civil, or administrative penalties; or

(iii) exclusion from a government program."

Section 2. Section 40-6-703, MCA, is amended to read:

"40-6-703. Parental involvement in education. (1) The board of trustees of a school district, in consultation with parents, teachers, and administrators, shall develop and adopt a policy to promote the involvement of parents of children enrolled in the school district, including:

(a) a plan for parent participation in the school district, which must be designed to improve parent and teacher cooperation in homework, attendance, and discipline;

(b) a plan to provide parents with information about how to participate in the governance of the school district through the locally elected board of trustees;

(c) procedures by which a parent may learn about the course of study for the parent's child;

(d) procedures by which a parent may withdraw the parent's child from instruction or presentations, assemblies, guest lectures, or other educational events facilitated by a school's faculty or staff, including those conducted by outside individuals or organizations, that offend the parent's beliefs or practices;

(e) procedures by which a parent may learn about the nature and purpose of clubs and extracurricular activities that have been approved by the school or that the school is required to allow under the provisions of the federal Equal Access Act of 1984 and may withdraw the parent's child from any club or extracurricular activity. A student shall provide a signed parental permission form prior to participating in any school-sponsored club or extracurricular activity.

(f) procedures by which a parent shall provide written consent before the parent's child uses a

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pronoun that does not align with the child's sex. If a parent provides written consent under this subsection (1)(f), a person may not be compelled to use pronouns that do not align with the child's sex.

(g) procedures by which a parent may learn about parental rights and responsibilities under the laws of this state.

(2) The board of trustees of a school district shall develop and adopt a policy to ensure that parents have full access to information relating to their children who are enrolled in the school district, including:

(a) requirements that a district employee may not withhold or conceal information from or facilitate, encourage, or coerce a child to withhold or conceal information from the child's parents about the child's:

(i) educational records;

(ii) curricular or extracurricular projects, assignments, or activities;

(iii) physical, emotional, or mental health; or

(iv) purported gender identity or requests to be treated as the opposite sex;

(b) requirements that school district employees may not be subject to disciplinary action or adverse employment action for informing a child's parent of any information regarding the child that the employee reasonably believes the parent should know;

(c) procedures to notify a parent at least 5 days in advance and obtain the parent's consent before the parent's child attends an instruction or presentation that has the goal or purpose of studying, exploring, or informing students about gender roles or stereotypes, gender identity, gender expression, or sexual orientation; and

(d) procedures by which a parent who objects to a specific instruction or presentation on the basis that it is harmful may withdraw the parent's child from the instruction or presentation. Objection to a specific instruction or presentation on the basis that it is harmful includes but is not limited to an objection to a material or activity because it questions beliefs or practices regarding sex, morality, or religion.

~~(2)~~(3) The board of trustees of a school district may adopt a policy providing that parents may submit and receive the information required by this section in electronic form.

(4) The board of trustees of a school district shall develop and adopt a policy that allows a parent to submit a complaint asserting a violation of this section, including:

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(a) procedures by which the district superintendent or a designated committee shall investigate a complaint;

(b) requirements that the district superintendent or a designated committee respond in writing within ~~30-14~~ days of receiving a parent's complaint and describe the action that will be taken to remedy the complaint; and

(c) procedures by which a parent may appeal the decision of the district superintendent or designated committee to the board of trustees; and

(d) requirements that the board of trustees appoint a committee to investigate a parent's appeal under subsection (4)(c). The committee shall meet with the parent to discuss the parent's complaint. Within 30 days of receiving the appeal, the committee shall submit a recommended response and proposed steps to remedy the complaint to the full board of trustees. The board of trustees shall take action on the committee's recommendation within 30 days of receipt of the recommendation or at the next regularly scheduled board meeting, whichever is earliest.

(5) Nothing in this section precludes ~~an individual a parent~~ from filing a suit asserting a violation of this section or any other claim allowed by law. ~~Nothing in this section requires exhaustion of the other remedies under this section prior to filing a suit. An individual A parent who, after exhausting the administrative remedies under subsection (4), successfully asserts a claim under this section is entitled to the remedies available under 40-6-701(5).~~

(6) The attorney general, superintendent of public instruction, or county attorney for the county in which an alleged violation of this section occurs may file suit and assert a violation of this section as a claim against the school district."

Section 3. Section 40-6-707, MCA, is amended to read:

"40-6-707. Construction. (1) Unless a right has been legally waived or legally terminated, a parent has inalienable rights that are more comprehensive than those listed in 40-6-701, 40-6-702, 40-6-703, 41-1-402, 41-1-403, 41-1-405, and this section. The protections afforded by 40-6-701, 40-6-702, 40-6-703, 41-1-402, 41-1-403, 41-1-405, and this section are in addition to the protections provided by the constitutions of the