

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

5

HOUSE BILL 755
Committee Substitute Favorable 5/4/21
Committee Substitute #2 Favorable 5/4/21
Senate Education/Higher Education Committee Substitute Adopted 5/25/22
Fifth Edition Engrossed 6/1/22

Short Title: Parents' Bill of Rights.

(Public)

Sponsors:

Referred to:

May 3, 2021

A BILL TO BE ENTITLED
AN ACT TO ENUMERATE THE RIGHTS OF PARENTS TO DIRECT THE UPBRINGING,
EDUCATION, HEALTH CARE, AND MENTAL HEALTH OF THEIR MINOR
CHILDREN.

The General Assembly of North Carolina enacts:

PART I. PARENTS' BILL OF RIGHTS

SECTION 1. Subchapter VI of Chapter 115C of the General Statutes is amended by
adding a new Article to read:

"Article 29E.

"Parents' Bill of Rights.

"§ 115C-407.50. Definitions.

The following definitions apply in this Article:

(1) Reserved for future codification purposes.

(2) Child. – A person less than 18 years of age who has not been emancipated
pursuant to Article 35 of Chapter 7B of the General Statutes.

(3) Reserved for future codification purposes.

(4) Reserved for future codification purposes.

(5) Parent. – A person who has legal custody of a child as a natural parent,
adoptive parent, or legal guardian.

(6) State. – The State, any of its political subdivisions, or any public school unit.

"§§ 115C-407.51 through 115C-407.52. Reserved for future codification purposes.

"§ 115C-407.53. Parents' bill of rights.

A parent has the right to the following:

(1) To direct the education and care of his or her child.

(2) To direct the upbringing and moral or religious training of his or her child.

(3) To enroll his or her child in a public or nonpublic school and in any school
choice options available to the parent for which the child is otherwise eligible
by law, in order to comply with compulsory attendance laws, as provided in
Part 1 of Article 26 of this Chapter.

(4) To access and review all education records, as authorized by the federal
Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, relating to his
or her child.



- (5) To make health care decisions for his or her child, unless otherwise provided by law, including Article 1A of Chapter 90 of the General Statutes.
- (6) To access and review all medical records of his or her child, as authorized by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), P.L. 104-191, as amended, except as follows:
- a. If the parent is the subject of an investigation of (i) a crime committed against the child under Chapter 14 of the General Statutes or (ii) an abuse and neglect complaint under Chapter 7B of the General Statutes, and an individual authorized to conduct that investigation requests that the information not be released to the parent.
- b. When otherwise prohibited by law.
- (7) To prohibit the creation, sharing, or storage of a biometric scan of his or her child without the parent's prior written consent, except as authorized pursuant to a court order or otherwise required by law, including G.S. 7B-2102 and G.S. 7B-2201.
- (8) To prohibit the creation, sharing, or storage of his or her child's blood or deoxyribonucleic acid (DNA) without the parent's prior written consent, except as authorized pursuant to a court order or otherwise required by law, including G.S. 7B-2201.
- (9) To prohibit the creation by the State of a video or voice recording of his or her child without the parent's prior written consent, except a recording made in the following circumstances:
- a. During or as part of a court proceeding.
- b. As part of an investigation under Chapter 7B or Chapter 14 of the General Statutes.
- c. When the recording will be used solely for any of the following purposes:
1. A safety demonstration, including one related to security and discipline on educational property.
2. An academic or extracurricular activity.
3. Classroom instruction.
4. Photo identification cards.
5. Security or surveillance of buildings or grounds.
- (10) To be promptly notified if an employee of the State suspects that a criminal offense has been committed against his or her child, unless the incident has first been reported to law enforcement or the county child welfare agency, and notification of the parent would impede the investigation.
- "§§ 115C-407.54 through 115C-407.55. Reserved for future codification purposes.**
- "§ 115C-407.56. Limitations on the right to parent.**
- (a) The requirements of this Article do not authorize a parent to do any of the following:
- (1) Engage in unlawful conduct.
- (2) Abuse or neglect the child, as defined in Chapter 7B of the General Statutes.
- (b) The requirements of this Article do not prohibit the following:
- (1) A State official or employee from acting in his or her official capacity within the reasonable and prudent scope of his or her authority.
- (2) A court of competent jurisdiction from acting in its official capacity within the reasonable and prudent scope of its authority or issuing an order otherwise permitted by law.
- "§§ 115C-407.57 through 115C-407.58. Reserved for future codification purposes.**
- "§ 115C-407.59. Employee penalties.**

An employee of the State who encourages, coerces, or attempts to encourage or coerce a child to withhold information from his or her parent may be subject to disciplinary action."

PART II. PARENTAL GUIDES AND NOTIFICATIONS

SECTION 2.(a) Subchapter III of Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 7B.

"Public School Unit Requirements.

"Part 1. Definitions.

"§ 115C-76.1. Definitions.

As used in this Article, the following definitions apply:

- (1) Reserved for future codification purposes.
- (2) Child. – A person less than 18 years of age who has not been emancipated pursuant to Article 35 of Chapter 7B of the General Statutes.
- (3) Reserved for future codification purposes.
- (4) Reserved for future codification purposes.
- (5) Parent. – A person who has legal custody of a child as a natural parent, adoptive parent, or legal guardian.
- (6) Principal. – A school administrator employed as a principal of a school, as provided in Article 19 of this Chapter, or the staff member with the highest decision-making authority at a school, if there is no principal.
- (7) School personnel. – Any of the following:
 - a. An employee of a public school unit, whether full-time or part-time, including substitute teachers, driver training teachers, bus drivers, clerical staff, and custodians.
 - b. An independent contractor or employee of an independent contractor of a public school unit, if the independent contractor carries out duties customarily performed by school personnel and has significant access to students, whether paid with federal, State, local, or other funds.
- (8) Superintendent. – Any of the following:
 - a. A superintendent of a local school administrative unit, as provided in Article 18 of this Chapter, or designee.
 - b. The staff member with the highest decision-making authority for a public school unit, if there is no superintendent or designee.

"§§ 115C-76.2 through 115C-76.4. Reserved for future codification purposes.

"Part 3. Parental Involvement in Public School Units.

"§ 115C-76.5. Priority of parental involvement in public school.

(a) The General Assembly finds that parental involvement and empowerment is fundamental to the successful education of all students. To strengthen partnerships among parents and school personnel, public school units and all public school unit personnel shall fully support and cooperate in implementing a well-planned, inclusive, and comprehensive program to assist parents and families in effectively participating in their child's education.

(b) To ensure active engagement and timely provision of information that parents can use to improve success for their child, public school units shall comply with the requirements of this Part to do all of the following:

- (1) Inform parents of their legal rights and responsibilities with regards to their child's education.
- (2) Provide a parent's guide for student achievement annually to parents to provide information parents need to know about their child's educational progress and how they can help their child to succeed in school.

(3) Develop policies to effectively involve parents in schools and their child's education.

"§ 115C-76.6. Parent legal rights for their child's education.

(a) Parents have legal rights with regards to their child's education, including the following:

- (1) The right to consent or withhold consent for participation in reproductive health and safety education programs, consistent with the requirements of G.S. 115C-81.30.
- (2) The right to seek a medical or religious exemption from immunization requirements, consistent with the requirements of G.S. 130A-156 and G.S. 130A-157.
- (3) The right to review statewide standardized assessment results as part of the State report card.
- (4) The right to request an evaluation of their child for an academically or intellectually gifted program, or for identification as a child with a disability, as provided in Article 9 of this Chapter.
- (5) The right to inspect and purchase public school unit textbooks and other supplementary instructional materials, as provided in Part 3 of Article 8 of this Chapter.
- (6) The right to access information relating to the unit's policies for promotion or retention, including high school graduation requirements.
- (7) The right to receive student report cards on a regular basis that clearly depict and grade the student's academic performance in each class or course, the student's conduct, and the student's attendance.
- (8) The right to access information relating to the State public education system, State standards, report card requirements, attendance requirements, and textbook requirements.
- (9) The right to participate in parent-teacher organizations.
- (10) The right to opt out of certain data collection for their child, as provided in Article 29 of this Chapter.
- (11) The right to review all available records of materials their child has borrowed from a school library.

(b) Public school units shall (i) allow parents to exercise these rights and (ii) make the rights contained in this section available to parents electronically or by displaying the information on the website of the public school unit.

"§ 115C-76.7. Parent's guide for student achievement.

(a) The State Board of Education shall develop minimum requirements for public school units for a parent's guide to student achievement to provide what parents need to know about their child's educational progress and how they can help their child to succeed in school. These minimum requirements shall include at least the following:

- (1) Parental information regarding the following:
 - a. Requirements for his or her child to be promoted to the next grade, including the requirements of Part 1A of Article 8 of this Chapter.
 - b. The course of study, textbooks, and other instructional materials for his or her child.
 - c. Progress of his or her child toward achieving State and unit expectations for academic proficiency, including policies for student assessment, and his or her child's assessment results, report cards, and progress reports.
 - d. Qualifications of his or her child's teachers, including licensure status.

- e. School entry requirements, including required immunizations and the recommended immunization schedule.
- (2) Parental actions that can do the following:
- a. Strengthen the child's academic progress, especially in the area of reading as provided in Part 1A of Article 8 of this Chapter.
- b. Strengthen the child's citizenship, especially social skills and respect for others.
- c. Strengthen the child's realization of high expectations and setting lifelong learning goals.
- d. Place a strong emphasis on the communication between the school and the home.
- (3) Services available for parents and their children, such as family literacy services; mentoring, tutoring, and other academic reinforcement programs; college planning, academic advisement, and student counseling services; and after-school programs.
- (4) Opportunities for parental participation, such as parenting classes, adult education, school advisory councils, and school volunteer programs.
- (5) Opportunities for parents to learn about rigorous academic programs that may be available for their child, such as honors programs, Career and College Promise and other dual enrollment opportunities, advanced placement, Advanced International Certificate of Education (AICE) courses, International Baccalaureate, North Carolina Virtual High School courses, and accelerated access to postsecondary education.
- (6) Educational choices available to parents, including each type of public school unit available to residents of the county in which the child lives and nonpublic school options, educational choice options offered within the public school unit, and scholarship grant programs under Part 2A of Article 39 and Article 41 of this Chapter.
- (7) Rights of students who have been identified as students with disabilities, as provided in Article 9 of this Chapter.
- (8) Contact information for school and unit offices.
- (9) Resources for information on the importance of student health and other available resources for parents, including the following information on available immunizations and vaccinations:
- a. A recommended immunization schedule in accordance with the United States Centers for Disease Control and Prevention recommendations.
- b. Information about meningococcal meningitis and influenza, as required by G.S. 115C-375.4.
- (b) The State Board shall update the minimum requirements on an annual basis and shall provide the requirements to public school units no later than May 1 annually.
- (c) Each public school unit shall provide to parents, students, and school personnel at the beginning of each school year a parent guide for student achievement that meets the following requirements:
- (1) Includes, at a minimum, the State Board requirements developed as provided in subsection (a) of this section and policies developed by the governing board as provided in G.S. 115C-76.8.
- (2) Is understandable to students and parents.
- (3) Is discussed at the beginning of each school year in meetings of students, parents, and teachers.

"§ 115C-76.8. Public school unit policies to increase parental involvement.

(a) Governing bodies of public school units shall, in consultation with parents, teachers, administrators, and community partners, develop and adopt policies to promote parental involvement and empowerment in the public school unit. The policies shall provide for parental choices and establish parental responsibilities. Policies that provide for parental involvement shall include the following:

- (1) Providing links to parents for community services.
- (2) Establishing opportunities for parental involvement in the development, implementation, and evaluation of family involvement programs.
- (3) Establishing opportunities for parents to participate on school advisory councils and in school volunteer programs and other activities.

(b) Governing bodies of public school units shall establish policies to do all of the following:

- (1) Provide for parental participation in their child's education to improve parent and teacher cooperation in areas such as homework, school attendance, and discipline that aligns with the parent guide for student achievement required by G.S. 115C-76.7.
- (2) Require principals to effectively communicate to parents the manner in which textbooks are used to implement the school's curricular objectives.
- (3) Establish a procedure for parents to learn about their child's course of study and the source of any supplementary instructional materials.
- (4) Establish a means for parents to object to textbooks and supplementary instructional materials consistent with the requirements of G.S. 115C-98.
- (5) Establish a process for parents to review materials for and to consent or withhold consent for participation in reproductive health and safety education programs, consistent with the requirements of G.S. 115C-81.30.
- (6) Establish a process for parents to learn about the nature and purpose of clubs and activities offered at their child's school, including both curricular and extracurricular activities.

"§ 115C-76.9. Time lines for parental requests for information.

(a) A parent may request in writing from the principal of the school in which his or her child is enrolled any of the information the parent has the right to access, as provided in this Part. A principal, within 10 business days, shall either (i) provide the requested information to the parent or (ii) provide an extension notice to the parent that, due to the volume or complexity of the request, the information will be provided no later than 20 business days from the date of the parental request.

(b) If the principal (i) denies or fails to respond to the request for information within 10 business days or (ii) fails to provide information within 20 business days following an extension notice as provided in subsection (a) of this section, the parent may request in writing any of the information the parent has the right to access, as provided in this Part, from the superintendent, along with a statement specifying the time frame of the denial or failure to provide information by the principal.

(c) If the superintendent denies or does not respond to the request for information within 10 business days, the parent may appeal the denial or lack of response to the governing body of the public school unit no later than 20 business days from the date of the request to the superintendent as provided in subsection (b) of this section. The governing body shall place the parent's appeal on the agenda for the next meeting of the body occurring more than three business days after submission of the appeal.

(d) The governing body shall establish, by policy, procedures governing requests for information and appeals that reflect the requirements of this section. The governing body may designate the process to be used by parents when submitting requests for information and shall

display information on the procedures for requests for information and appeals along with other parental rights, as required by G.S. 115C-76.6.

(e) A decision of a governing body under this section is final and is not subject to judicial review.

"§§ 115C-76.10 through 115C-76.15. Reserved for future codification purposes.

"Part 4. Notifications of Student Physical and Mental Health.

"§ 115C-76.16. Notifications of student physical and mental health.

(a) The governing board of a public school unit shall adopt procedures to notify a parent of the following:

(1) At the beginning of each school year, notice of each health care service offered at his or her child's school and the means for the parent to provide consent for any specific service. A parent's consent to a health care service does not waive the parent's right to access his or her child's educational records or health records or to be notified of changes in his or her child's services or monitoring.

(2) At the beginning of each school year, procedures to exercise the parental remedies provided by G.S. 115C-76.19.

(3) Prior to administration to students in kindergarten through third grade, a copy of any student well-being questionnaire or health screening form and the means for the parent to consent to the use of the questionnaire or form for his or her child.

(4) Prior to or contemporaneous with changes, notice of changes in services or monitoring related to his or her child's mental, emotional, or physical health or well-being, and the school's ability to provide a safe and supportive learning environment for that child.

(5) Prior to any changes in the name or pronoun used for a student in school records or by school personnel, notice to the parent of the change.

(b) In accordance with the right of parents provided in Article 29E of this Chapter, the procedures shall include a requirement that school personnel do one or both of the following:

(1) Encourage a child to discuss issues related to the child's well-being with his or her parent.

(2) Facilitate discussion of the issue with the child's parents.

(c) The procedures shall not prohibit parents from accessing any of their child's education and health records created, maintained, or used by the public school unit, except as follows:

(1) As limited by G.S. 115C-407.54(6).

(2) When a reasonably prudent person would believe that disclosure would result in the child becoming an abused juvenile or neglected juvenile, as those terms are defined in G.S. 7B-101.

(d) The governing board and public school unit shall not adopt procedures or forms that do any of the following:

(1) Prohibit school employees from notifying a parent about his or her child's mental, emotional, or physical health or well-being or a change in related services or monitoring.

(2) Encourage or have the effect of encouraging a child to withhold from that child's parent information about his or her mental, emotional, or physical health or well-being or a change in related services or monitoring.

(e) School personnel shall not discourage or prohibit parental notification of and involvement in critical decisions affecting a student's mental, emotional, or physical health or well-being.

"§ 115C-76.17. Student support services training.

1 Student support services training developed or provided by a public school unit to school
2 personnel shall adhere to student services guidelines, standards, and frameworks established by
3 the Department of Public Instruction.

4 **"§ 115C-76.18. Age-appropriate instruction for grades kindergarten through third grade.**

5 Instruction on sexual orientation or gender identity shall not be included in the curriculum
6 provided in grades kindergarten through third grade, regardless of whether the information is
7 provided by school personnel or third parties. For the purposes of this section, curriculum
8 includes the standard course of study and support materials, locally developed curriculum,
9 supplemental instruction, and textbooks and other supplementary materials.

10 **"§ 115C-76.19. Remedies for parental concerns.**

11 (a) The governing board of a public school unit shall adopt procedures for a parent to
12 notify the principal at his or her child's school regarding concerns about a public school unit's
13 procedure or practice under this Part and a process for resolving those concerns within seven
14 days of the date of notification by the parent. If the parental concern has not been resolved within
15 30 days following the date of notification by the parent, the public school unit shall provide a
16 statement of the reasons for not resolving the concern.

17 (b) If a concern is not resolved by the public school unit within 30 days, a parent may do
18 either of the following:

19 (1) Notify the State Board of Education of the concern and request a parental
20 concern hearing. The State Board shall establish rules for parental concern
21 hearings. At a minimum, the rules shall require the following:

22 a. The State Board of Education shall appoint a qualified hearing officer.
23 To qualify as a hearing officer, an individual must be a member in
24 good standing of the North Carolina State Bar with demonstrated
25 experience in education or administrative law within the last five
26 years.

27 b. The hearing shall be conducted in accordance with rules established
28 by the State Board.

29 c. The hearing officer shall determine facts related to the dispute over the
30 public school unit's procedure or practice, consider information
31 provided by the public school unit, and render a recommended
32 decision for resolution to the State Board of Education within 30 days
33 after assignment to the parental concern hearing.

34 d. The State Board shall approve or reject the recommended decision at
35 its next regularly scheduled board meeting held more than seven days
36 after receipt of the recommended decision.

37 e. The public school unit shall pay for the costs of the hearing officer.

38 (2) Bring an action against the public school unit as provided in Article 26 of
39 Chapter 1 of the General Statutes for a declaratory judgment that the unit's
40 procedure or practice violates this Part. The court may award injunctive relief
41 to a parent and shall award reasonable attorneys' fees and costs to a parent
42 awarded injunctive relief.

43 (c) The provisions of this section are in addition to any other remedies or procedures
44 authorized or permitted by law."

45 **SECTION 2.(b)** By June 30, 2023, the Department of Public Instruction shall review
46 and update, as necessary, all of the following in accordance with this act:

47 (1) School counseling frameworks and standards.

48 (2) Educator practices and professional conduct principles.

49 (3) Other student services and school personnel guidelines, standards, or
50 frameworks.

1 **SECTION 2.(c)** This section is effective when it becomes law and applies beginning
2 with the 2022-2023 school year.

3
4 **PART III. PARENTAL AUTHORIZATION FOR HEALTH CARE OF MINORS**

5 **SECTION 3.(a)** Article 1A of Chapter 90 of the General Statutes is amended by
6 adding a new Part to read:

7 "Part 3. Parental Consent for Treatment.

8 **"§ 90-21.10A. Definitions.**

9 The following definitions apply in this Article:

10 (1), (2) Reserved for future codification purposes.

11 (3) Health care facility. – A health care facility, licensed under Chapter 131E or
12 122C of the General Statutes, where health care services are provided to
13 patients, including:

14 a. An agent or employee of the health care facility that is licensed,
15 certified, or otherwise authorized to provide health care services.

16 b. The officers and directors of a health care facility.

17 (4) Health care practitioner. – An individual who is licensed, certified, or
18 otherwise authorized under this Chapter, Chapter 90B, Chapter 90C, or
19 Chapter 115C of the General Statutes to provide health care services in the
20 ordinary course of business or practice of a profession or in an approved
21 education or training program, or an agent or employee of that individual.

22 (5) Minor child. – Any person under the age of 18 who has not been married or
23 has not been emancipated pursuant to Article 35 of Chapter 7B of the General
24 Statutes.

25 (6) Parent. – A minor child's parent or legal guardian.

26 (7) Treatment. – Any medical procedure or treatment, including X-rays, the
27 administration of drugs, blood transfusions, use of anesthetics, and laboratory
28 or other diagnostic procedures employed by or ordered by a health care
29 practitioner that is used, employed, or ordered to be used or employed
30 commensurate with the exercise of reasonable care and equal to the standards
31 of medical practice normally employed in the community where the health
32 care practitioner administers treatment to the minor child.

33 **"§ 90-21.10B. Parental consent for treatment.**

34 (a) Except as otherwise provided in this Article or by court order, a health care
35 practitioner shall not provide, solicit, or arrange treatment for a minor child without first
36 obtaining written consent from that minor child's parent.

37 (b) Except as otherwise provided in this Article or by court order, a health care facility
38 shall not allow treatment to be performed on a minor child in its facility without first obtaining
39 written consent from that minor child's parent.

40 (c) This section does not apply to services provided by a clinical laboratory, unless the
41 services are delivered through a direct encounter with the minor child at the clinical laboratory
42 facility.

43 **"§ 90-21.10C. Penalty.**

44 A health care practitioner or other person that violates this section is subject to disciplinary
45 action by the board that licensed, certified, or otherwise authorized the health care practitioner to
46 provide treatment, including a fine of up to five thousand dollars (\$5,000)."

47 **SECTION 3.(b)** This section becomes effective December 1, 2022, and applies to
48 violations committed on or after that date.

49
50 **PART IV. EFFECTIVE DATE**

51 **SECTION 4.** Except as otherwise provided, this act becomes effective July 1, 2022.