

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

## **SB 1309**

Introduced by

Senators Gray C, Gray L, Pearce R; Representatives Barnes, Barto, Gowan,  
Montenegro; Senators Allen S, Harper, Melvin, Verschoor; Representatives  
Antenori, Burges, Lesko, Mason, Murphy, Nichols, Stevens

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 SECTIONS 36-2272 AND 36-2273; REPEALING SECTION 44-132.01, ARIZONA REVISED STATUTES; 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, 36-2272 AND 36-2273,  
28 UNLESS 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.

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

33 8. THE RIGHT TO CONSENT IN WRITING BEFORE ANY RECORD OF THE MINOR  
34 CHILD'S BLOOD OR DEOXYRIBONUCLEIC ACID IS CREATED, STORED OR SHARED OR BEFORE  
35 ANY GENETIC TESTING IS CONDUCTED ON THE MINOR CHILD PURSUANT TO SECTION  
36 12-2803.

37 9. THE RIGHT TO CONSENT IN WRITING BEFORE THE STATE OR ANY OF ITS  
38 POLITICAL SUBDIVISIONS MAKES A VIDEO OR VOICE RECORDING OF THE MINOR CHILD,  
39 UNLESS THE VIDEO OR VOICE RECORDING IS TO BE USED SOLELY FOR ANY OF THE  
40 FOLLOWING:

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

44 (b) A PURPOSE RELATED TO A LEGITIMATE ACADEMIC OR EXTRACURRICULAR  
45 ACTIVITY.

- 1 (c) A PURPOSE RELATED TO REGULAR CLASSROOM INSTRUCTION.
- 2 (d) SECURITY OR SURVEILLANCE OF BUILDINGS OR GROUNDS.
- 3 (e) A PHOTO IDENTIFICATION CARD.

4 10. THE RIGHT TO BE NOTIFIED PROMPTLY IF AN EMPLOYEE OF THIS STATE,  
5 ANY POLITICAL SUBDIVISION OF THIS STATE, ANY OTHER GOVERNMENTAL ENTITY OR ANY  
6 OTHER INSTITUTION SUSPECTS THAT THE MINOR CHILD HAS BEEN ABUSED OR NEGLECTED  
7 IN VIOLATION OF THE LAWS OF THIS STATE OR THAT A CRIMINAL OFFENSE HAS BEEN  
8 COMMITTED AGAINST THE MINOR CHILD, UNLESS THE NOTIFICATION WOULD IMPEDE A LAW  
9 ENFORCEMENT OR CHILD PROTECTIVE SERVICES INVESTIGATION.

10 B. THIS SECTION DOES NOT AUTHORIZE OR ALLOW A PARENT TO ENGAGE IN  
11 CONDUCT THAT IS UNLAWFUL OR TO ABUSE OR NEGLECT A CHILD IN VIOLATION OF THE  
12 LAWS OF THIS STATE. THIS SECTION DOES NOT PROHIBIT LAW ENFORCEMENT OFFICERS  
13 OR EMPLOYEES OF A GOVERNMENT AGENCY DEVOTED TO CHILD WELFARE WHO ARE ACTING  
14 IN A REASONABLE AND PRUDENT MANNER FROM ACTING IN THEIR OFFICIAL CAPACITY  
15 WITHIN THE SCOPE OF THEIR AUTHORITY.

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

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

25 E. FOR THE PURPOSES OF THIS SECTION, "PARENT" MEANS THE PARENT OR  
26 LEGAL GUARDIAN OF A MINOR CHILD.

27 Sec. 2. Section 15-102, Arizona Revised Statutes, is amended to read:  
28 15-102. Parental involvement in the school; definition

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

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

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

39 3. Procedures by which parents who object to any learning material or  
40 activity on the basis that it is harmful may withdraw their children from the  
41 activity or from the class or program in which the material is used.  
42 Objection to a learning material or activity on the basis that it is harmful  
43 includes objection to a material or activity because it questions beliefs or  
44 practices in sex, morality or religion.

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

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

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

13          7. PROCEDURES BY WHICH PARENTS MAY LEARN ABOUT PARENTAL RIGHTS AND  
14 RESPONSIBILITIES UNDER THE LAWS OF THIS STATE, INCLUDING A SUMMARY AND A  
15 BRIEF DESCRIPTION OF EACH OF THE FOLLOWING:

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

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

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

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

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

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

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

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

27           (i) THE RIGHT TO PARTICIPATE IN GIFTED PROGRAMS PURSUANT TO SECTION  
28 15-779.01

29           (j) THE RIGHT TO ACCESS INSTRUCTIONAL MATERIALS PURSUANT TO SECTION  
30 15-730.

31           (k) THE RIGHT TO RECEIVE A SCHOOL REPORT CARD PURSUANT TO SECTION  
32 15-746.

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

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

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

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

40           (p) THE RIGHT TO PARTICIPATE ON SCHOOL COUNCILS PURSUANT TO SECTION  
41 15-351.

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

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

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

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

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

7 (a) Rights under the family educational rights and privacy act of 1974  
8 (20 United States Code section 1232g) relating to access to children's  
9 official records.

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

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

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

15 4. Efforts to encourage access to community and support services for  
16 children and families.

17 5. The promotion of communication between the school and parents  
18 concerning school programs and the academic progress of the parents'  
19 children.

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

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

24 8. The recognition of the diversity of parents and the development of  
25 guidelines that promote widespread parental participation and involvement in  
26 the school at various levels.

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

29 10. The development of strategies and programmatic structures at  
30 schools to encourage and enable parents to participate actively in their  
31 children's education.

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

34 ~~C.~~ D. A parent shall submit a written request for information  
35 pursuant to this section during regular business hours to either the school  
36 principal at the school site or the superintendent of the school district at  
37 the office of the school district. Within ten days of receiving the request  
38 for information, the school principal or the superintendent of the school  
39 district shall either deliver the requested information to the parent or  
40 submit to the parent a written explanation of the reasons for the denial of  
41 the requested information. If the request for information is denied or the  
42 parent does not receive the requested information within fifteen days after  
43 submitting the request for information, the parent may submit a written  
44 request for the information to the school district governing board, which  
45 shall formally consider the request at the next scheduled public meeting of

1 the governing board ~~that~~ IF the request can be properly noticed on the  
2 agenda. IF THE REQUEST CANNOT BE PROPERLY NOTICED ON THE AGENDA, THE  
3 GOVERNING BOARD SHALL FORMALLY CONSIDER THE REQUEST AT THE NEXT SUBSEQUENT  
4 PUBLIC MEETING OF THE GOVERNING BOARD.

5 ~~D.~~ E. For the purposes of this section, "parent" means the parent or  
6 person who has custody of the child.

7 Sec. 3. Title 36, chapter 22, article 1, Arizona Revised Statutes, is  
8 amended by adding sections 36-2272 and 36-2273, to read:

9 36-2272. Prescription orders; minors; parental consent;  
10 definitions

11 A. EXCEPT AS PERMITTED BY SECTION 41-2805 OR FEDERAL LAW, A HEALTH  
12 PROFESSIONAL WHO IS AUTHORIZED BY LAW TO WRITE MEDICAL PRESCRIPTIONS SHALL  
13 NOT WRITE A PRESCRIPTION ORDER FOR A PERSON WHO IS UNDER EIGHTEEN YEARS OF  
14 AGE UNLESS ANY OF THE FOLLOWING APPLIES:

15 1. THE HEALTH PROFESSIONAL HAS SECURED THE WRITTEN CONSENT OF AT LEAST  
16 ONE OF THE MINOR'S PARENTS.

17 2. THE HEALTH PROFESSIONAL HAS SECURED VERBAL CONSENT IN PERSON FROM  
18 AT LEAST ONE OF THE MINOR'S PARENTS.

19 3. THE MINOR IS EMANCIPATED PURSUANT TO TITLE 12, CHAPTER 15, ARTICLE  
20 1 OR IS OTHERWISE AUTHORIZED TO CONSENT BY SECTION 44-132.

21 B. THIS SECTION DOES NOT APPLY WHEN THE HEALTH PROFESSIONAL HAS  
22 DETERMINED THAT A MEDICAL EMERGENCY EXISTS AND THAT IT IS NECESSARY TO ISSUE  
23 THE PRESCRIPTION ORDER OR ADMINISTER A DRUG FOR THE TREATMENT OF A SERIOUS  
24 DISEASE OR INJURY OR DRUG ABUSE, OR TO SAVE THE LIFE OF THE PATIENT.

25 C. A HEALTH PROFESSIONAL WHO VIOLATES THIS SECTION COMMITS AN ACT OF  
26 UNPROFESSIONAL CONDUCT.

27 D. FOR THE PURPOSES OF THIS SECTION:

28 1. "HEALTH PROFESSIONAL" HAS THE SAME MEANING PRESCRIBED IN SECTION  
29 32-3201.

30 2. "PARENT" MEANS THE PARENT OR LEGAL GUARDIAN OF A MINOR CHILD.

31 36-2273. Consent of parent required for mental health screening  
32 or treatment of minors; exception; violation;  
33 classification; definition

34 A. EXCEPT AS OTHERWISE PROVIDED BY LAW, NO PERSON, CORPORATION,  
35 ASSOCIATION, ORGANIZATION OR STATE-SUPPORTED INSTITUTION, OR ANY INDIVIDUAL  
36 EMPLOYED BY ANY OF THESE ENTITIES, MAY PROCURE, SOLICIT TO PERFORM, ARRANGE  
37 FOR THE PERFORMANCE OF OR PERFORM MENTAL HEALTH SCREENING OR MENTAL HEALTH  
38 TREATMENT ON A MINOR WITHOUT FIRST OBTAINING THE WRITTEN CONSENT OF A PARENT  
39 OF THE MINOR CHILD.

40 B. THIS SECTION DOES NOT APPLY WHEN AN EMERGENCY EXISTS THAT REQUIRES  
41 A PERSON TO PROVIDE MENTAL HEALTH TREATMENT TO PREVENT SERIOUS INJURY TO OR  
42 SAVE THE LIFE OF A MINOR CHILD.

43 C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1  
44 MISDEMEANOR.

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

3 Sec. 4. Repeal

4 Section 44-132.01, Arizona Revised Statutes, is repealed.

5 Sec. 5. Construction

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

8 Sec. 6. Short title

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