

REFERENCE TITLE: schools; surveys; express parental consent

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **HB 2286**

Introduced by  
Representatives Fillmore: Burges, Carter

AN ACT

AMENDING SECTION 15-117, ARIZONA REVISED STATUTES; RELATING TO SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-117, Arizona Revised Statutes, is amended to  
3 read:

4 15-117. Surveys; pupil information; parental permission and  
5 informed consent; exceptions; civil penalties;  
6 definitions

7 A. Notwithstanding any other law, each school district and charter  
8 school shall obtain written informed consent from the parent of a pupil  
9 before administering any survey that is retained by a school district, a  
10 charter school or the department of education for longer than one year and  
11 that solicits personal information about the pupil regarding any of the  
12 following:

- 13 1. Critical appraisals of another person with whom a pupil has a  
14 close relationship.
- 15 2. Gun or ammunition ownership.
- 16 3. Illegal, antisocial or self-incriminating behavior.
- 17 4. Income or other financial information.
- 18 5. Legally recognized privileged or analogous relationships, such  
19 as relationships with a lawyer, physician or member of the clergy.
- 20 6. Medical history or medical information.
- 21 7. Mental health history or mental health information.
- 22 8. Political affiliations, opinions or beliefs.
- 23 9. Pupil biometric information.
- 24 10. The quality of home interpersonal relationships.
- 25 11. Religious practices, affiliations or beliefs.
- 26 12. Self-sufficiency as it pertains to emergency, disaster and  
27 essential services interruption planning.
- 28 13. Sexual behavior or attitudes.
- 29 14. Voting history.

30 B. At the beginning of every school year, every school district and  
31 charter school shall obtain written informed consent from the parent of a  
32 pupil to participate in any survey pursuant to subsection A of this  
33 section for the entire year. A parent of a pupil may at any time revoke  
34 consent for the pupil to participate in any survey pursuant to subsection  
35 A of this section. For any pupil who is at least eighteen years of age,  
36 the permission or consent that would otherwise be required from the  
37 pupil's parent pursuant to this section is required only from the pupil.  
38 All surveys conducted pursuant to subsection A of this section shall be  
39 approved and authorized by the school district or charter school. The  
40 school district or charter school is subject to the penalties prescribed  
41 in subsection ~~M~~ M of this section. A teacher or other school employee  
42 may not administer any survey pursuant to subsection A of this section  
43 without written authorization from the school district or charter school.

1 C. A SCHOOL DISTRICT OR CHARTER SCHOOL SHALL OBTAIN THE WRITTEN  
2 INFORMED CONSENT REQUIRED UNDER THIS SECTION IN A TRANSPARENT MANNER ON A  
3 SEPARATE PAPER OR ELECTRONIC FORM. THE SCHOOL DISTRICT OR CHARTER SCHOOL  
4 MAY NOT OBTAIN THE WRITTEN INFORMED CONSENT REQUIRED UNDER THIS SECTION BY  
5 INCLUDING THE CONSENT REQUEST IN A HANDBOOK OR BY REQUESTING THE CONSENT  
6 REQUIRED UNDER THIS SECTION WITH ANY OTHER CONSENT REQUEST.

7 ~~E.~~ D. This section applies to all surveys conducted pursuant to  
8 subsection A of this section:

- 9 1. Regardless of the stated purpose of the survey.
- 10 2. Regardless of the quantity or percentage of questions that  
11 solicit data pursuant to subsection A of this section.
- 12 3. Including written or digital surveys.

13 ~~D.~~ E. This section does not apply to:

- 14 1. Mental health screening pursuant to section 15-104 or the  
15 identification of or programming for children with disabilities or gifted  
16 pupils pursuant to chapter 7, articles 4 and 4.1 of this title.
- 17 2. Class instruction, discussion or assignments on subjects within  
18 the purview of the course.
- 19 3. Private schools.
- 20 4. Any nationally recognized college entrance exam that a student  
21 chooses to take regardless if the administration of the exam takes place  
22 on public school property.
- 23 5. Any survey conducted that contains questions soliciting  
24 information pursuant to subsection A of this section if the survey does  
25 not require a student's name or any other personally identifiable  
26 information.
- 27 6. Any survey conducted or implemented by the Arizona criminal  
28 justice commission.
- 29 7. Any method of surveying a student that is conducted because a  
30 person has a reasonable belief that a minor is or has been a victim of  
31 abuse pursuant to section 13-3620.

32 ~~E.~~ F. A penalty may not be imposed on a pupil or the parent of a  
33 pupil who does not participate in any survey conducted pursuant to  
34 subsection A of this section. Participation in any survey pursuant to  
35 subsection A of this section is not required:

- 36 1. To demonstrate that a pupil has met competency requirements for  
37 any grade level, course or subject.
- 38 2. For a pupil to qualify for placement into any grade level,  
39 course or subject.
- 40 3. For a pupil to be promoted to the next grade.
- 41 4. For a pupil to receive credit for any course or as part of a  
42 letter grade for any course.
- 43 5. For a pupil to graduate from high school.
- 44 6. For a pupil to obtain a high school equivalency diploma.

1           ~~F.~~ G. A school district or charter school shall provide an  
2 alternative educational activity for any pupil whose parent does not  
3 consent for that pupil to participate in a survey conducted pursuant to  
4 subsection A of this section.

5           ~~G.~~ H. Any pupil whose parent does not give written informed  
6 consent for that pupil to participate in any survey pursuant to subsection  
7 A of this section and who attends the alternative educational activity  
8 pursuant to this section shall be counted toward daily attendance and  
9 average daily membership for the school pursuant to section 15-901 and may  
10 not be counted absent from school.

11           ~~H.~~ I. Responses to any survey pursuant to subsection A of this  
12 section may not be included:

13           1. As part of a school academic performance indicator pursuant to  
14 section 15-241, or as part of any other similar school rating system.

15           2. In the education learning and accountability system pursuant to  
16 section 15-249, or in any other similar system.

17           3. In the student accountability information system pursuant to  
18 section 15-756.10 or 15-1041, or in any other similar system.

19           ~~I.~~ J. A penalty may not be imposed on and a reward may not be  
20 granted to a teacher, administrator, other school employee, school  
21 district, school or charter school based on the pupil participation rate  
22 in any survey conducted pursuant to subsection A of this section.

23           ~~J.~~ K. On request, a charter school or school district shall  
24 provide any available information in a timely manner to the parent of a  
25 pupil regarding a survey administered pursuant to subsection A of this  
26 section, including:

27           1. The name of the survey.

28           2. The date or dates on which the survey will be administered.

29           3. The method or methods of administering the survey.

30           4. The amount of time required to administer the survey.

31           5. The type of information collected by the survey.

32           6. The reasons for administering the survey.

33           ~~K.~~ L. A parent of a pupil that has a reasonable belief that a  
34 school district or charter school has violated this section may file a  
35 complaint with the attorney general or the county attorney for the county  
36 in which an alleged violation of this section occurred. The attorney  
37 general or the county attorney for the county in which an alleged  
38 violation of this section occurred may initiate a suit in the superior  
39 court in the county in which the school district or charter school is  
40 located for the purpose of complying with this section. After receiving  
41 written notice of an alleged failure to comply with this section, a school  
42 district or charter school that determines that a violation has occurred  
43 is not subject to a penalty or cause of action under this section if the  
44 school district or charter school cures the violation. For the purposes  
45 of this subsection, "cure" means to destroy any information gathered in

1 violation of this section and to provide written instruction to the  
2 individual circulating the survey, to be kept on file for one year after  
3 receipt of the written notice of the alleged failure to comply.

4 ~~L.~~ M. FOR EACH VIOLATION OF SUBSECTION C OF THIS SECTION, THE  
5 COURT SHALL IMPOSE A CIVIL PENALTY OF \$1,000 PER STUDENT. For each  
6 violation of ANY OTHER PROVISION OF this section, the court may impose a  
7 civil penalty not to exceed ~~five hundred dollars~~ \$500. The school  
8 district or charter school determined to be out of compliance with this  
9 section shall ~~be responsible for the payment of~~ PAY all penalties.

10 ~~M.~~ N. An attorney acting on behalf of a public school may request  
11 a legal opinion of the county attorney or attorney general as to whether  
12 the public school would violate this section.

13 ~~N.~~ O. All penalties collected by the court for a suit initiated in  
14 superior court by the attorney general shall be paid to the office of the  
15 attorney general for the use and reimbursement of costs of prosecution  
16 pursuant to this section. All penalties collected by the court for a suit  
17 initiated in superior court by a county attorney shall be paid to the  
18 county treasurer of the county in which the court is held for the use and  
19 reimbursement of costs of prosecution pursuant to this section.

20 ~~O.~~ P. For the purposes of this section:

21 1. "Parent" has the same meaning prescribed in section 15-101,  
22 except that parent does not mean this state if the pupil is a ward of the  
23 state.

24 2. "Survey" means:

25 (a) When used as a noun, an instrument that investigates the  
26 attitudes, behaviors, beliefs, experiences, opinions or thoughts of a  
27 pupil or group of pupils.

28 (b) When used as a verb, to use an instrument to investigate the  
29 attitudes, behaviors, beliefs, experiences, opinions or thoughts of a  
30 pupil or group of pupils.