

REFERENCE TITLE: parental rights; medical records.

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1579

Introduced by
Senator Wadsack

AN ACT

AMENDING SECTION 1-602, 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. Section 1-602, Arizona Revised Statutes, is amended to
3 read:

4 1-602. Parents' bill of rights; governmental interference
5 restricted; burden of proof; definition

6 A. All parental rights are exclusively reserved to a parent of a
7 minor child without obstruction or interference from this state, any
8 political subdivision of this state, any other governmental entity or any
9 other institution, including:

10 1. The right to direct the education of the minor child.

11 2. All rights of parents identified in title 15, including the
12 right to access and review all records relating to the minor child.

13 3. The right to direct the upbringing of the minor child.

14 4. The right to direct the moral or religious training of the minor
15 child.

16 5. The right to make all health care decisions for the minor child,
17 including rights pursuant to sections 15-873, 36-2271 and 36-2272, unless
18 otherwise prohibited by law. A HEALTH CARE ENTITY SHALL GIVE A PARENT
19 EQUIVALENT ACCESS TO ANY ELECTRONIC PORTAL AND ANY OTHER HEALTH CARE
20 DELIVERY PLATFORM THROUGHOUT THE MINORITY OF THE PARENT'S CHILD.

21 6. The right to request, access and review all written and
22 electronic medical records of the minor child unless otherwise prohibited
23 by law or unless the parent is the subject of an investigation of a crime
24 committed against the minor child and a law enforcement official requests
25 that the information not be released. THIS RIGHT INCLUDES ACCESS TO
26 WRITTEN AND ELECTRONIC MEDICAL RECORDS FOR SERVICES NOT REQUIRING PARENTAL
27 CONSENT, INCLUDING THOSE DESCRIBED IN SECTIONS 36-2271, 36-2272, 44-133
28 AND 44-133.01.

29 7. The right to consent in writing before a biometric scan of the
30 minor child is made pursuant to section 15-109.

31 8. The right to consent in writing before any record of the minor
32 child's blood or deoxyribonucleic acid is created, stored or shared,
33 except as required by section 36-694, or before any genetic testing is
34 conducted on the minor child pursuant to section 12-2803 unless authorized
35 pursuant to section 13-610 or a court order.

36 9. The right to consent in writing before this state or any of its
37 political subdivisions makes a video or voice recording of the minor
38 child, unless the video or voice recording is made during or as a part of
39 a court proceeding, by law enforcement officers during or as part of a law
40 enforcement investigation, during or as part of an interview in a criminal
41 or child safety services investigation or to be used solely for any of the
42 following:

43 (a) Safety demonstrations, including the maintenance of order and
44 discipline in the common areas of a school or on pupil transportation
45 vehicles.

1 (b) A purpose related to a legitimate academic or extracurricular
2 activity.

3 (c) A purpose related to regular classroom instruction.

4 (d) Security or surveillance of buildings or grounds.

5 (e) A photo identification card.

6 10. The right to be notified promptly if an employee of this state,
7 any political subdivision of this state, any other governmental entity or
8 any other institution suspects that a criminal offense has been committed
9 against the minor child by someone other than a parent, unless the
10 incident has first been reported to law enforcement and notifying the
11 parent would impede a law enforcement or child safety services
12 investigation. This paragraph does not create any new obligation for
13 school districts and charter schools to report misconduct between students
14 at school, such as fighting or aggressive play, that is routinely
15 addressed as a student disciplinary matter by the school.

16 11. The right to obtain information about a child safety services
17 investigation involving the parent pursuant to section 8-807.

18 B. This section does not authorize or allow a parent to engage in
19 conduct that is unlawful or to abuse or neglect a child in violation of
20 the laws of this state. This section does not prohibit courts, law
21 enforcement officers or employees of a government agency responsible for
22 child welfare from acting in their official capacity within the scope of
23 their authority. This section does not prohibit a court from issuing an
24 order that is otherwise allowed by law.

25 C. Any attempt to encourage or coerce a minor child to withhold
26 information from the child's parent is grounds for discipline of an
27 employee of this state, any political subdivision of this state, any other
28 governmental entity or any other institution, except for law enforcement
29 personnel.

30 D. Unless those rights have been legally waived or legally
31 terminated, parents have inalienable rights that are more comprehensive
32 than those listed in this section. This chapter does not prescribe all
33 rights of parents or preempt or foreclose claims or remedies in support of
34 parental rights that are available under the constitution, statutes or
35 common law of this state. Unless otherwise required by law, the rights of
36 parents of minor children shall not be limited or denied.

37 E. Except as prescribed in subsections F and G of this section,
38 this state, a political subdivision of this state or any other
39 governmental entity, or any official of this state, a political
40 subdivision of this state or any other governmental entity acting under
41 color of law, shall not interfere with or usurp the fundamental right of
42 parents to direct the upbringing, education, health care and mental health
43 of their children. A parent may bring suit against a governmental entity
44 or official described in this subsection based on any violation of the
45 statutory rights set forth in this chapter or any other action that

1 interferes with or usurps the fundamental right of parents to direct the
2 upbringing, education, health care and mental health of their children in
3 the superior court in the county in which the violation or other action
4 occurs or in federal court, if authorized by federal law, or before an
5 administrative tribunal of appropriate jurisdiction. A parent may raise a
6 violation of this chapter as a claim or a defense.

7 F. In any action under subsection E of this section, the
8 governmental entity or official described in subsection E of this section
9 has the burden of proof to demonstrate both of the following:

10 1. That the interference or usurpation is essential to accomplish a
11 compelling government interest of the highest order, as long recognized in
12 the history and traditions of this state in the operation of its
13 regulatory powers.

14 2. That the method of interference or usurpation used by the
15 government is narrowly tailored and is not otherwise served by a less
16 restrictive means.

17 G. A governmental entity or official described in subsection E of
18 this section may interfere with or usurp the fundamental right of parents
19 to direct the upbringing, education, health care and mental health of
20 their children only if the governmental entity or official successfully
21 demonstrates both elements described in subsection F of this section. If
22 the governmental entity or official is unsuccessful, the court shall grant
23 appropriate relief, such as declaratory or injunctive relief, compensatory
24 damages and attorney fees, based on the facts of the case and the law as
25 applied to the facts.

26 H. For the purposes of this section, "parent" means the natural or
27 adoptive parent or legal guardian of a minor child.