

REFERENCE TITLE: **medical records; parental rights**

State of Arizona
House of Representatives
Fifty-seventh Legislature
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HB 2126

Introduced by
Representatives Willoughby: Biasiucci, Bliss, Carbone, Kupper, Montenegro,
Nguyen

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. **WHILE MAINTAINING ANY CONFIDENTIALITY THAT**
19 **IS OWED TO THE MINOR CHILD PURSUANT TO A LAW OR COURT ORDER, A HEALTH CARE**
20 **ENTITY SHALL GIVE A PARENT ACCESS TO ANY ELECTRONIC PORTAL AND ANY OTHER**
21 **HEALTH CARE DELIVERY PLATFORM THAT IS SEPARATE BUT EQUAL TO THE MINOR**
22 **CHILD'S ACCESS THROUGHOUT THE MINORITY OF THE PARENT'S CHILD.**

23 6. The right to request, access and review all written and
24 electronic medical records of the minor child unless otherwise prohibited
25 by law or unless the parent is the subject of an investigation of a crime
26 committed against the minor child and a law enforcement official requests
27 that the information not be released. **THIS RIGHT INCLUDES ACCESS TO**
28 **WRITTEN AND ELECTRONIC MEDICAL RECORDS FOR SERVICES THAT DO NOT REQUIRE**
29 **PARENTAL CONSENT, INCLUDING THOSE DESCRIBED IN SECTIONS 36-2271, 36-2272,**
30 **44-133 AND 44-133.01.**

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,
35 except as required by section 36-694, or before any genetic testing is
36 conducted on the minor child pursuant to section 12-2803 unless authorized
37 pursuant to section 13-610 or a court order.

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

1 (a) Safety demonstrations, including the maintenance of order and
2 discipline in the common areas of a school or on pupil transportation
3 vehicles.

4 (b) A purpose related to a legitimate academic or extracurricular
5 activity.

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

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

8 (e) A photo identification card.

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

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

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

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

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

40 E. Except as prescribed in subsections F and G of this section,
41 this state, a political subdivision of this state or any other
42 governmental entity, or any official of this state, a political
43 subdivision of this state or any other governmental entity acting under
44 color of law, shall not interfere with or usurp the fundamental right of
45 parents to direct the upbringing, education, health care and mental health

1 of their children. A parent may bring suit against a governmental entity
2 or official described in this subsection based on any violation of the
3 statutory rights set forth in this chapter or any other action that
4 interferes with or usurps the fundamental right of parents to direct the
5 upbringing, education, health care and mental health of their children in
6 the superior court in the county in which the violation or other action
7 occurs or in federal court, if authorized by federal law, or before an
8 administrative tribunal of appropriate jurisdiction. A parent may raise a
9 violation of this chapter as a claim or a defense.

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

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

17 2. That the method of interference or usurpation used by the
18 government is narrowly tailored and is not otherwise served by a less
19 restrictive means.

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

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