

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2662**

As Recommended by House Committee on
K-12 Education Budget

Brief*

Sub. for HB 2662 would establish the Parents' Bill of Rights and Academic Transparency Act. The bill would provide that every parent in the state would have the right to direct the upbringing, education, care, and mental health of the parent's child.

The bill would also revise the requirements for the administration of surveys, including tests, questionnaires, and examinations, in schools.

Parents' Bill of Rights

The bill would establish three new sections of law to codify the Parents' Bill of Rights and require school districts to establish academic transparency portals. The bill would also amend the statute relating to teacher evaluation policies of school districts.

Parental Rights (New Section 1)

Section 1 of the bill would establish the Parents' Bill of Rights. The bill would provide a legislative statement of intent that a parent shall retain the primary role in a child's education, to obtain critical information about what is being taught or provided in the classroom and to take action when a parent feels that the quality or content of a child's education

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

does not align with the values and expectations the parent expects and deserves. The bill would provide that a parent shall have a fundamental right to direct the upbringing, education, care and mental health of the parent's child and would establish parental rights. The bill would give parents the the rights to:

- Direct the education and care of the parent's child;
- Direct the upbringing and the moral or religious training of such child;
- Request, access, and inspect all written and electronic records maintained by a school relating to such child;
- Be informed of and inspect the curriculum, instructional materials, and any other materials that are made available or taught to such child in the child's school;
- Attend publicly designated meetings of the local school board and question and address school officials during designated public comment periods or through letters, electronic communications, or in-person meetings;
- Make healthcare and medical decisions for such child, including the right to make decisions regarding vaccinations and immunizations;
- Expect that such child, and each teacher and educator of such child, shall not be compelled to affirm, believe, profess, or adhere to any idea that violates the Civil Rights Act of 1964;
- Expect that no course of instruction or unit of study shall direct or otherwise compel the child to personally affirm, adopt, or adhere to any idea that violates the Civil Rights Act of 1964;

- Expect that the child's school shall not contract for teacher professional development with providers that promote racially essentialist doctrines or practices that have been held to violate the Civil Rights Act of 1964;
- Expect that each teacher and educator of such child will endeavor to present facts without distortion, bias, or personal prejudice;
- Expect that each teacher and educator of such child shall work to eliminate coercion that forces teachers and educators to support actions and ideologies that violate individual professional integrity; and
- Assert any other inalienable or constitutional right that is reserved to the parent and the child pursuant to state or federal law.

The bill would require the board of education of each school district, on or before January 1, 2023, to develop policies in consultation with parents, teachers, and school administrators that would guarantee a parents right to be involved in the child's education. Such policies would be required to include procedures for a parent to:

- Be informed through the parent transparency portal or other means of notification and have the ability to inspect any materials and activities that are anticipated to be used for instruction;
- Inspect and review any educational or health records that pertain to the child;
- Have an opportunity to object to any learning material or activity on the basis that such material harms the child or impairs the parent's firmly held beliefs, values, or principles and withdraw such child from the activity, class, or program;

- Have an opportunity to request that the school designate any book, magazine, or any other material that is made available to students in the school library as an item for which parental review is recommended as provided in Section 2 of the bill and amendments thereto. Such policies and procedures would require the consideration of each such challenge and, if a challenge is upheld, such book, magazine, or other material must be so designated in accordance with the provisions of Section 2, and amendments thereto; and
- Have an opportunity to challenge the material or educational benefit of any book, magazine, or any other material that is made available to students in the school library. Such policies and procedures would require the consideration of each such challenge and if a challenge is upheld, such book, magazine, or other material must be removed from the school.

Parent Transparency Portals (New Section 2)

Section 2 of the bill would require the board of education of each school district, on or before July 1, 2023, to establish an internet-based parent transparency portal on the school district's website with a prominent link to the portal on the website homepage of the school district and each school that maintains its own website. Each school district's parent transparency portal would be required to provide the following information:

- The Parent's Bill of Rights;
- A list organized by school, grade level, and area of instruction that includes the academic learning materials, activities, and curriculum that are used at each school. The list would be required to include the title, author, organization, website

address, and any other information necessary to identify such items;

- A link to the curriculum standards established by the State Board of Education, associated with each applicable grade level and subject matter;
- A list organized by school, grade level, and area of instruction that includes the social and emotional learning materials, activities, and curriculum used for student instruction at any school of the school district. Such list would be required to include the title, author, organization, website address, and any other information that is necessary for the identification of such materials, activities, and curriculum;
- A list organized by school, grade level, and area of instruction that includes the following information for each nonacademic test, questionnaire, survey, and examination referred to in KSA 72-6316, and amendments thereto, that is administered in any school of the school district:
 - A copy of each test, questionnaire, survey, or examination;
 - The name of the company or entity that produces or provides the test, questionnaire, survey, or examination;
 - An explanation of the purposes of the data collection, how the collected data is intended to be used, and whether the data will remain private or be reported as aggregate data;
 - An explanation of how such test, questionnaire, survey, or examination benefits student learning and academic achievement; and
 - An explanation of whether the school district will receive or maintain the resulting data and

an explanation of how the school intends to use and maintain such data;

- A list organized by school, grade level, and area of instruction, if applicable, that includes the professional development courses, training materials, and related activities that were provided or offered to any licensed teacher or administrator of the school district. Such list must include the title, author, organization, website address, and any other information that is necessary for the identification of the courses, materials and activities;
- A link to the catalog or a list of the inventory of school library resources. Such link or catalog would be required to clearly provide whether any book, magazine, or other material is designated for recommended parental review, or has been placed on the books under review list in accordance with the bill; indicate whether such designation is due to sexual content, excessive profanity, or excessive violence; and provide a sample of the material that necessitates such designation;
- Information on how a person may request and be given the opportunity to review and inspect any information that is required to be listed or referenced on the school district's parent transparency portal; and
- The school district's policies adopted pursuant to the bill that provide for parental involvement in a child's education.

The bill would require any book, magazine, or material that is made available to students in the school library to be designated as an item for which parental review is recommended if the item is requested to be designated as such pursuant to the policies in the bill and such item meets

the standard for designation pursuant to the following definition:

“Parental review is recommended” would mean any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture, film, record, video, or any other written communication that:

- The average person applying contemporary community standards would find, taking the material as a whole and with respect to minors, is designed to appeal or pander to the prurient interest;
- Depicts, describes, or represents, in a manner patently offensive with respect to what is suitable to minors, an actual or simulated sexual act or sexual contact or a lewd exhibition of the genitals or post-pubescent female breast; and
- When taken as a whole, lacks serious literary, scientific, artistic, or political value for minor;
- Contains excessive profanity; or
- Contains excessive violence.

A school district would be required to review all such library materials that are purchased on and after July 1, 2022, and establish a process to designate such materials as may be necessary. A parent would be authorized, pursuant to policies required to be adopted by school districts under the bill, to request that material be designated as material in which parental review is recommended, and the bill would require the school district to designate the item unless it unequivocally does not meet such criteria.

Each school district would also be required to post any learning materials, activities, curriculum, and any other information required to be listed or provided pursuant to the

bill prior to the first day of school if such school district knows that such materials, activities, curriculum, or information (materials) will be used during the upcoming school year.

For any learning materials that are not listed or provided on the parent transparency portal at the beginning of the school year, each school district must cause any such materials to be listed or provided on an ongoing weekly or monthly basis during the school year as such materials are presented or provided to students. For the purpose of making ongoing weekly and monthly updates, a school district would be permitted to use collaborative online document or spreadsheet software that allows multiple users to update or make additions to content on an ongoing basis as long as the contents of such online document or spreadsheet are made available on the parent transparency portal.

The bill would require all such information required to be listed or provided on the parent transparency portal in a school year to be finalized and completed by June 30 of such school year. Once posted, all such information would be required to be maintained on the website for at least two years.

The bill would authorize the Kansas State Department of Education to provide guidance and assistance to school districts regarding the establishment and maintenance of the transparency portals. The bill would also authorize the Attorney General, or the city, county, or district attorney or a resident of the school district in which the school is located to bring a suit for injunctive relief or a writ of mandamus to compel a school district to comply with the requirements of the parent transparency portal. If a resident of a school district prevails in such an action, the court shall award such resident reasonable attorney fees not exceeding \$15,000.

Definitions (Section 3)

Section 3 of the bill would define terms in the bill.

Teacher Evaluations (Section 4)

Section 5 of the bill would amend KSA 72-2410 relating to teacher evaluation policies at school districts. Currently, the statute provides certain criteria for the development and requirements of such evaluation policies. The bill would amend such statute to provide that no teacher who is subject to such evaluation shall be negatively evaluated or have such person's contract non-renewed on the basis of such teacher's refusal to teach through critical pedagogy philosophies or against such person's sincerely held religious beliefs.

Surveys

The bill would revise the requirements for the administration of surveys, including tests, questionnaires, and examinations in schools. The bill would provide additional requirements for the administration of surveys. The bill would apply such requirements to any survey that contains questions about the personal and private attitudes, values, beliefs, or practices of the student or any of the student's family, friends, or peers. Prior to the administration of any such survey, the bill would require the school to provide prior written notification to the parent or guardian no more than four months in advance of the administration of the survey. The written parental notification would be required to include the following information:

- A copy of the survey;
- Information on how the parent can provide written consent for the student to participate;
- The name of the company or entity that produces or provides the survey;

- An explanation of the purpose of the data that is collected, how the data is used, and whether the data will remain private or be reported as aggregate data;
- An explanation of how such survey benefits student learning and academic achievement; and
- Whether the school will receive or maintain the resulting data and how the school will use such data.

The bill would provide that a parent's written consent could only be accepted by a school after the parent receives the required notification and has had an opportunity to review the information in such notification. A separate notification would be required for each survey, and the parent's written consent would be required upon each notification for a student to participate. Even if a parent provides written consent, the bill would authorize a student to refuse to take such survey and not suffer any adverse consequences for the decision. Prior to administration of any survey, the bill would require students be informed of such right to refuse.

The bill would require each school to post and maintain copies of each survey that is administered in the school district. The bill would require copies to be posted on the school district website and updated as necessary. The bill would also provide that no such survey shall be incorporated or embedded in any academic program, course, or curriculum offered or provided by a school district.

Additionally, the bill would prohibit the collection of any personally identifiable student data on any such survey.

Finally, the bill would remove the school counselor exception so that the requirements of the bill would apply to counseling services.

Background

Sub. for HB 2662, as recommended by the House Committee on K-12 Education Budget, incorporates the contents of HB 2662, as introduced, and HB 2513, as introduced. The background information for both referenced bills follows.

HB 2662 (Parent's Bill of Rights)

The bill was introduced by the House Committee on K-12 Education Budget at the request of Representative Williams.

House Committee on K-12 Education Budget

In the House Committee hearing on the bill, **proponent** testimony was provided by a representative from the Goldwater Institute, Kansas Family Voice, and Kansas Policy Institute. Written-only proponent testimony was provided by representatives from Americans for Prosperity Kansas, Opportunity Solutions Project, and Wisconsin Policy for Law & Liberty. Proponents generally stated the bill would increase transparency for parents, would make learning materials more easily accessible to parents, and would more clearly differentiate the roles of parents and teachers.

Written-only neutral testimony was provided by a representative of the Kansas State Parent Teacher Association. The neutral testimony generally stated the bill would increase parental engagement, but stated the bill lacked clarity.

Opponent testimony was provided by representatives from ACLU of Kansas, Equality Kansas, Game on for Kansas Schools, Immunize Kansas Coalition, Kansas Action for Children, Kansas Interfaith Action, Kansas National Education Association, Kansas State Nurses Association, USD 313 (Buhler), and two private citizens. Opponents generally stated

the bill would limit student access to different perspectives, lead to teachers leaving the profession, and put undue work burdens on teachers.

Written-only opponent testimony was provided by the Immunize Kansas Coalition, Kansas Educators Support Foundation, Kansas People of Color Action Coalition, Kansas Association of School Boards, Kansas City Kansas Public Schools, League of Women Voters of Kansas, Mainstream Coalition, Mid America Immunization Coalition, State Board of Education, USD 204 (Bonner Springs), USD 215 (Lakin), USD 355 (Ellinwood), USD 382 (Pratt), USD 400 (Smoky Valley), USD 466 (Scott City), and private citizens. These representatives generally stated the bill would put an undue burden on teachers and would limit the educational opportunities of students.

The House Committee amended the bill to:

- Make technical amendments for clarity throughout the bill;
- Require school districts to post materials they reasonably expect to use in the upcoming school year before the school year begins;
- Remove provisions that would require school districts to review all library materials purchased or obtained by the school district in the last five years to determine if parental review is recommended for each material;
- Remove provisions related to the promotion of harmful materials to minors, including a provision that would remove the affirmative defense to the crime for public and private K-12 schools;
- Create separate sections regarding academic learning materials and social emotional learning materials;

- Amend the definition of “activities” and “learning materials”; and
- Incorporate the contents of HB 2513.

The House Committee recommended a substitute bill be passed.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on HB 2662, as introduced, the Kansas Department of Education (KSDE) indicates enactment of the bill would have no fiscal effect on state aid to school districts. The bill would have negligible administrative costs for the agency. However, the bill would have significant administrative costs for school districts, likely costing millions of dollars to develop the parent transparency portals and to review each book, magazine, or other material offered in a school library; however, the costs for each individual school district would vary and cannot be estimated.

The KSDE indicates the bill has the potential for increasing litigation in the courts because of the new violation created by the bill. If it does, there would be a fiscal effect on the operations of the court system. However, it is not possible to estimate the number of additional court cases that would arise or how complex and time-consuming they would be. As a result, a fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor’s Budget Report*.

HB 2513 (Surveys)

The bill was introduced by the House Committee on K-12 Education Budget at the request of Representative Hoffman.

House Committee on K-12 Education Budget

In the House Committee hearing on the bill, **proponent** testimony was provided by representatives from Culture Shield Network and Educational Management Consultants, as well as three private citizens. Written-only proponent testimony was provided by private citizens. Proponents generally stated the bill would increase transparency for parents and remove potentially sensitive questions in surveys.

Neutral written-only testimony was provided by a representative from Greenbush Education Service Center. The testimony stated the organization supports transparency and parental consent in the administration of surveys, however, the testimony also stated these practices and protocols are already in place.

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on HB 2513, as introduced, the KSDE states the enactment of HB 2513 would have no fiscal effect on state aid to school districts; however, the agency notes that there would be additional administrative costs for local school districts, but these additional costs cannot be estimated.

Education; Parents' Bill of Rights; academic transparency; academic transparency portal; survey; test; personally identifiable data