

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2258

2015 Carryover

(BY DELEGATE COWLES AND KURCABA)

[Introduced January 13, 2016; referred to the
Committee on Health and Human Resources then
Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §44-10A-1, §44-10A-2, §44-10A-3, §44-10A-4 and §44-10A-5, all relating to
 3 the codification of a Parents' Bill of Rights.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §44-10A-1, §44-10A-2, §44-10A-3, §44-10A-4 and §44-10A-5, all to read as
 3 follows:

ARTICLE 10A. PARENTS' BILL OF RIGHTS.

§44-10A-1. Short title.

1 This article shall be known and may be cited as the "Parents' Bill of Rights".

§44-10A-2. Fundamental rights of parents; definition.

1 (a) The liberty of parents to direct the upbringing, education, health care and mental health
 2 of their children is a fundamental right.

3 (b) This state, a political subdivision of this state or other governmental unit may not
 4 infringe on the fundamental rights without demonstrating that a compelling governmental interest
 5 as applied to the child involved is of the highest order, is narrowly tailored and is not otherwise
 6 served by a less restrictive means.

7 (c) Unless a parents' fundamental rights have been legally waived or legally terminated,
 8 parents have inalienable rights that are more comprehensive than those identified in section three
 9 of this article. The Parents' Bill of Rights does not prescribe all rights of parents. Unless otherwise
 10 required by law, the rights of parents of minor children shall not be limited or denied.

11 (d) As used in this article, "parent" means the natural or adoptive parent or legal guardian
 12 of a minor child.

§44-10A-3. Specific parental rights.

1 All parental rights are reserved to a parent of a minor child without obstruction or
2 interference from this state, a political subdivision of this state, other governmental entity or other
3 institution including, but not limited to, the following rights:

4 (1) The right to direct the education of the minor child;

5 (2) All rights of parents identified in chapter eighteen of this code including the right to
6 access and review all school records relating to the minor child;

7 (3) The right to direct the upbringing of the minor child;

8 (4) The right to direct the moral or religious training of the minor child;

9 (5) The right to make health care decisions for the minor child unless otherwise
10 prohibited by law;

11 (6) The right to access and review all medical records of the minor child unless otherwise
12 prohibited by law or the parent is the subject of an investigation of a crime committed against the
13 minor child and a law-enforcement official requests that the information not be released;

14 (7) The right to consent in writing before a biometric scan of the minor child is made;

15 (8) The right to consent in writing before a record of the minor child's blood or
16 deoxyribonucleic acid (DNA) is created, stored or shared;

17 (9) The right to consent in writing before the state or its political subdivisions make a
18 video or voice recording of the minor child unless the video or voice recording is made during or
19 as a part of a court proceeding, by law-enforcement officers during or as part of a law-enforcement
20 investigation, during or as part of a forensic interview in a criminal or child protective services
21 investigation or to be used solely for any of the following:

22 (A) Safety demonstrations including the maintenance of order and discipline in the
23 common areas of a school or on student transportation vehicles;

24 (B) A purpose related to a legitimate academic or extracurricular activity;

- 25 (C) A purpose related to regular classroom instruction;
- 26 (D) Security or surveillance of buildings or grounds; or
- 27 (E) A photo identification card; and
- 28 (10) The right to be notified promptly if an employee of this state, a political subdivision
- 29 of this state, other governmental entity or other institution suspects that a criminal offense has
- 30 been committed against the minor child by someone other than a parent unless the incident has
- 31 first been reported to law enforcement and notification of the parent would impede a law
- 32 enforcement or child protective services investigation.

§44-10A-4. Limitations of article.

1 (a) This article does not authorize or allow a parent to engage in conduct that is unlawful
 2 or to abuse or neglect a child in violation of the laws of this state and does not apply to a parental
 3 action or decision that would end life. This article does not prohibit courts, law-enforcement
 4 officers or employees of a government agency responsible for child welfare from acting in their
 5 official capacity within the reasonable and prudent scope of their authority, and does not prohibit
 6 a court from issuing an order that is otherwise permitted by law.

7 (b) This article does not create a new obligation for schools to report misconduct between
 8 students at school, such as fighting or aggressive play, that is routinely addressed as a student
 9 disciplinary matter by the school.

§44-10A-5. Discipline of state employee for interference.

1 An attempt to encourage or coerce a minor child to withhold information from the child's
 2 parent is grounds for discipline of an employee of this state, a political subdivision of this state or
 3 other governmental entity except for law-enforcement personnel.

NOTE: The purpose of this bill is to codify a Parents' Bill of Rights.

This article is new; therefore, it has been completely underscored.