

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 755
Committee Substitute Favorable 5/4/21
Committee Substitute #2 Favorable 5/4/21
PROPOSED SENATE COMMITTEE SUBSTITUTE H755-CSTC-62 [v.11]
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Short Title: Parents' Bill of Rights.

(Public)

Sponsors:

Referred to:

May 3, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO ENUMERATE THE RIGHTS OF PARENTS TO DIRECT THE UPBRINGING,
3 EDUCATION, HEALTH CARE, AND MENTAL HEALTH OF THEIR MINOR
4 CHILDREN.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. PARENTS' BILL OF RIGHTS**

8 **SECTION 1.** Subchapter VI of Chapter 115C of the General Statutes is amended by
9 adding a new article to read:

10 "Article 29E.

11 "Parents' Bill of Rights.

12 **"§ 115C-407.50. Definitions.**

13 The following definitions apply in this Article:

- 14 (1) Reserved for future codification purposes.
15 (2) Child. – A person less than 18 years of age who has not been emancipated
16 pursuant to Article 35 of Chapter 7B of the General Statutes.
17 (3) Reserved for future codification purposes.
18 (4) Reserved for future codification purposes.
19 (5) Parent. – A person who has legal custody of a child as a natural parent,
20 adoptive parent, or legal guardian.
21 (6) State. – The State, any of its political subdivisions, or any public school unit.

22 **"§ 115C-407.51. through § 115C-407.52.** Reserved for future codification purposes.

23 **"§ 115C-407.53. Parents' bill of rights.**

24 A parent has the right to the following:

- 25 (1) To direct the education and care of his or her child.
26 (2) To direct the upbringing and moral or religious training of his or her child.
27 (3) To enroll his or her child in a public or nonpublic school and in any school
28 choice options available to the parent for which the child is otherwise eligible
29 by law, in order to comply with compulsory attendance laws, as provided in
30 Part 1 of Article 26 of this Chapter.
31 (4) To access and review all education records, as authorized by the federal
32 Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, relating to his
33 or her child.



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- 1 (5) To make health care decisions for his or her child, unless otherwise provided
2 by law, including Article 1A of Chapter 90 of the General Statutes.
- 3 (6) To access and review all medical records of his or her child, as authorized by
4 the Health Insurance Portability and Accountability Act of 1996 (HIPAA),
5 Public Law 104-191, as amended, except as follows:
- 6 a. If the parent is the subject of an investigation of (i) a crime committed
7 against the child under Chapter 14 of the General Statutes or (ii) an
8 abuse and neglect complaint under Chapter 7B of the General Statutes,
9 and an individual authorized to conduct that investigation requests that
10 the information not be released to the parent.
- 11 b. When otherwise prohibited by law.
- 12 (7) To prohibit the creation, sharing, or storage of a biometric scan of his or her
13 child without the parent's prior written consent, except as authorized pursuant
14 to a court order or otherwise required by law, including G.S. 7B-2102 and
15 G.S. 7B-2201.
- 16 (8) To prohibit the creation, sharing, or storage of his or her child's blood or
17 deoxyribonucleic acid (DNA) without the parent's prior written consent,
18 except as authorized pursuant to a court order or otherwise required by law,
19 including G.S. 7B-2201.
- 20 (9) To prohibit the creation by the State of a video or voice recording of his or her
21 child without the parent's prior written consent, except a recording made in
22 the following circumstances:
- 23 a. During or as part of a court proceeding.
- 24 b. As part of an investigation under Chapter 7B or Chapter 14 of the
25 General Statutes.
- 26 c. When the recording will be used solely for any of the following
27 purposes:
- 28 1. A safety demonstration, including one related to security and
29 discipline on educational property.
- 30 2. An academic or extracurricular activity.
- 31 3. Classroom instruction.
- 32 4. Photo identification cards.
- 33 5. Security or surveillance of buildings or grounds.
- 34 (10) To be promptly notified if an employee of the State suspects that a criminal
35 offense has been committed against his or her child, unless the incident has
36 first been reported to law enforcement or the county child welfare agency, and
37 notification of the parent would impede the investigation.

38 **"§ 115C-407.54. through § 115C-407.55.** Reserved for future codification purposes.

39 **"§ 115C-407.56. Limitations on the right to parent.**

- 40 (a) The requirements of this Article do not authorize a parent to do any of the following:
- 41 (1) Engage in unlawful conduct.
- 42 (2) Abuse or neglect the child, as defined in Chapter 7B of the General Statutes.
- 43 (b) The requirements of this Article do not prohibit the following:
- 44 (1) A State official or employee from acting in his or her official capacity within
45 the reasonable and prudent scope of his or her authority.
- 46 (2) A court of competent jurisdiction from acting in its official capacity within
47 the reasonable and prudent scope of its authority, or issuing an order otherwise
48 permitted by law.

49 **"§ 115C-407.57. through § 115C-407.58.** Reserved for future codification purposes.

50 **"§ 115C-407.59. Employee penalties.**

1 An employee of the State who encourages, coerces, or attempts to encourage or coerce, a
2 child to withhold information from his or her parent may be subject to disciplinary action."

4 **PART II. PARENTAL GUIDES AND NOTIFICATIONS**

5 **SECTION 2.(a)** Subchapter III of Chapter 115C of the General Statutes is amended
6 by adding a new article to read:

7 "Article 7B.

8 "Public School Unit Requirements.

9 "Part 1. Definitions.

10 **"§ 115C-76.1. Definitions.**

11 As used in this Article, the following definitions apply:

- 12 (1) Reserved for future codification purposes.
13 (2) Child. – A person less than 18 years of age who has not been emancipated
14 pursuant to Article 35 of Chapter 7B of the General Statutes.
15 (3) Reserved for future codification purposes.
16 (4) Reserved for future codification purposes.
17 (5) Parent. – A person who has legal custody of a child as a natural parent,
18 adoptive parent, or legal guardian.
19 (6) Principal. – A school administrator employed as a principal of a school, as
20 provided in Article 19 of this Chapter, or the staff member with the highest
21 decision-making authority at a school, if there is no principal.
22 (7) School personnel. – Any of the following:
23 a. An employee of a public school unit, whether full-time or part-time,
24 including substitute teachers, driver training teachers, bus drivers,
25 clerical staff, and custodians.
26 b. An independent contractor or employee of an independent contractor
27 of a public school unit, if the independent contractor carries out duties
28 customarily performed by school personnel and has significant access
29 to students, whether paid with federal, State, local, or other funds.
30 (8) Superintendent. – Any of the following:
31 a. A superintendent of a local school administrative unit, as provided in
32 Article 18 of this Chapter, or designee.
33 b. The staff member with the highest decision-making authority for a
34 public school unit, if there is no superintendent, or designee.

35 **"§ 115C-76.2 through § 115C-76.4. – Reserved for future codification purposes.**

36 "Part 3. Parental Involvement in Public School Units.

37 **"§ 115C-76.5. Priority of parental involvement in public school.**

38 (a) The General Assembly finds that parental involvement and empowerment is
39 fundamental to the successful education of all students. To strengthen partnerships among parents
40 and school personnel, public school units and all public school unit personnel shall fully support
41 and cooperate in implementing a well-planned, inclusive, and comprehensive program to assist
42 parents and families in effectively participating in their child's education.

43 (b) To ensure active engagement and timely provision of information that parents can use
44 to improve success for their child, public school units shall comply with the requirements of this
45 Part to do all of the following:

- 46 (1) Inform parents of their legal rights and responsibilities with regards to their
47 child's education.
48 (2) Provide a parent's guide for student achievement annually to parents to
49 provide information parents need to know about their child's educational
50 progress and how they can help their child to succeed in school.

- 1 (3) Develop policies to effectively involve parents in schools and their child's
2 education.

3 **"§ 115C-76.6. Parent legal rights for their child's education.**

4 (a) Parents have legal rights with regards to their child's education, including the
5 following:

- 6 (1) The right to consent or withhold consent for participation in reproductive
7 health and safety education programs, consistent with the requirements of
8 G.S. 115C-81.30.
9 (2) The right to seek a medical or religious exemption from immunization
10 requirements, consistent with the requirements of G.S. 130A-156 and
11 G.S. 130A-157.
12 (3) The right to review statewide standardized assessment results as part of the
13 State report card.
14 (4) The right to request an evaluation of their child for an academically or
15 intellectually gifted program, or for identification as a child with a disability
16 as provided in Article 9 of this Chapter.
17 (5) The right to inspect and purchase public school unit textbooks and other
18 supplementary instructional materials, as provided in Part 3 of Article 8 of this
19 Chapter.
20 (6) The right to access information relating to the unit's policies for promotion or
21 retention, including high school graduation requirements.
22 (7) The right to receive student report cards on a regular basis that clearly depict
23 and grade the student's academic performance in each class or course, the
24 student's conduct, and the student's attendance.
25 (8) The right to access information relating to the State public education system,
26 State standards, report card requirements, attendance requirements, and
27 textbook requirements.
28 (9) The right to participate in parent-teacher organizations.
29 (10) The right to opt-out of certain data collection for their child, as provided in
30 Article 29 of this Chapter.
31 (11) The right to review all available records of materials their child has borrowed
32 from a school library.

33 (b) Public school units shall (i) allow parents to exercise these rights and (ii) make the
34 rights contained in this section available to parents electronically or by displaying the information
35 on the website of the public school unit.

36 **"§ 115C-76.7. Parent's guide for student achievement.**

37 (a) The State Board of Education shall develop minimum requirements for public school
38 units for a parent's guide to student achievement to provide what parents need to know about
39 their child's educational progress and how they can help their child to succeed in school. These
40 minimum requirements shall include at least the following:

- 41 (1) Parental information regarding the following:
42 a. Requirements for his or her child to be promoted to the next grade,
43 including the requirements of Part 1A of Article 8 of this Chapter.
44 b. The course of study, textbooks and other instructional materials for his
45 or her child.
46 c. Progress of his or her child toward achieving State and unit
47 expectations for academic proficiency, including policies for student
48 assessment, and his or her child's assessment results, report cards, and
49 progress reports.
50 d. Qualifications of his or her child's teachers, including licensure status.

- 1 e. School entry requirements, including required immunizations and the
2 recommended immunization schedule.
- 3 (2) Parental actions that can do the following:
- 4 a. Strengthen the child's academic progress, especially in the area of
5 reading as provided in Part 1A of Article 8 of this Chapter.
- 6 b. Strengthen the child's citizenship, especially social skills and respect
7 for others.
- 8 c. Strengthen the child's realization of high expectations and setting
9 lifelong learning goals.
- 10 d. Place a strong emphasis on the communication between the school and
11 the home.
- 12 (3) Services available for parents and their children, such as family literacy
13 services; mentoring, tutoring, and other academic reinforcement programs;
14 college planning, academic advisement, and student counseling services; and
15 after-school programs.
- 16 (4) Opportunities for parental participation, such as parenting classes, adult
17 education, school advisory councils, and school volunteer programs.
- 18 (5) Opportunities for parents to learn about rigorous academic programs that may
19 be available for their child, such as honors programs, Career and College
20 Promise and other dual enrollment opportunities, advanced placement,
21 Advanced International Certificate of Education (AICE) courses,
22 International Baccalaureate, North Carolina Virtual High School courses, and
23 accelerated access to postsecondary education.
- 24 (6) Educational choices available to parents, including each type of public school
25 unit available to residents of the county in which the child lives and nonpublic
26 school options, educational choice options offered within the public school
27 unit, and scholarship grant programs under Part 2A of Article 39 and Article
28 41 of this Chapter.
- 29 (7) Rights of students who have been identified as students with disabilities, as
30 provided in Article 9 of this Chapter.
- 31 (8) Contact information for school and unit offices.
- 32 (9) Resources for information on the importance of student health and other
33 available resources for parents, including the following information on
34 available immunizations and vaccinations:
- 35 1. A recommended immunization schedule in accordance with
36 United States Centers for Disease Control and Prevention
37 recommendations.
- 38 2. Information about meningococcal meningitis and influenza, as
39 required by G.S. 115C-375.4.
- 40 (b) The State Board shall update the minimum requirements on an annual basis and shall
41 provide the requirements to public school units no later than May 1 annually.
- 42 (c) Each public school unit shall provide to parents, students, and school personnel at the
43 beginning of each school year a parent guide for student achievement that meets the following
44 requirements:
- 45 (1) Includes, at a minimum, the State Board requirements developed as provided
46 in subsection (c) of this section, and policies developed by the governing
47 board as provided in G.S. 115C-76.8.
- 48 (2) Is understandable to students and parents.
- 49 (3) Is discussed at the beginning of each school year in meetings of students,
50 parents, and teachers.

51 **§ 115C-76.8. Public school unit policies to increase parental involvement.**

1 (a) Governing bodies of public school units shall, in consultation with parents, teachers,
2 administrators, and community partners, develop and adopt policies to promote parental
3 involvement and empowerment in the public school unit. The policies shall provide for parental
4 choices and establish parental responsibilities. Policies that provides for parental involvement
5 shall include the following:

6 (1) Providing links to parents for community services.

7 (2) Establishing opportunities for parental involvement in the development,
8 implementation, and evaluation of family involvement programs.

9 (3) Establishing opportunities for parents to participate on school advisory
10 councils and in school volunteer programs and other activities.

11 (b) Governing bodies of public school units shall establish policies to do all of the
12 following:

13 (1) Provide for parental participation in their child's education to improve parent
14 and teacher cooperation in areas such as homework, school attendance, and
15 discipline that aligns with the parent guide for student achievement required
16 by G.S. 115C-76.7.

17 (2) Require principals to effectively communicate to parents the manner in which
18 textbooks are used to implement the school's curricular objectives.

19 (3) Establish a procedure for parents to learn about their child's course of study
20 and the source of any supplementary instructional materials.

21 (4) Establish a means for parents to object to textbooks and supplementary
22 instructional materials consistent with the requirements of G.S. 115C-98.

23 (5) Establish a process for parents to review materials for and to consent or
24 withhold consent for participation in reproductive health and safety education
25 programs, consistent with the requirements of G.S. 115C-81.30.

26 (6) Establish a process for parents to learn about the nature and purpose of clubs
27 and activities offered at their child's school, including both curricular and
28 extracurricular activities.

29 **"§ 115C-76.9. Timelines for parental requests for information.**

30 (a) A parent may request in writing from the principal of the school in which his or her
31 child is enrolled any of the information the parent has the right to access, as provided in this Part.
32 A principal, within 10 business days, shall either (i) provide the requested information to the
33 parent, or (ii) provide an extension notice to the parent that, due to the volume or complexity of
34 the request, the information will be provided no later than 20 business days from the date of the
35 parental request.

36 (b) If the principal (i) denies or fails to respond to the request for information within 10
37 business days, or (ii) fails to provide information within 20 business days following an extension
38 notice as provided in subsection (a) of this section, the parent may request in writing any of the
39 information the parent has the right to access, as provided in this Part, from the superintendent,
40 along with a statement specifying the timeframe of the denial or failure to provide information
41 by the principal.

42 (c) If the superintendent denies or does not respond to the request for information within
43 10 business days, the parent may appeal the denial or lack of response to the governing body of
44 the public school unit no later than 20 business days from the date of the request to the
45 superintendent as provided in subsection (b) of this section. The governing body shall place the
46 parent's appeal on the agenda for the next meeting of the body occurring more than three business
47 days after submission of the appeal.

48 (d) The governing body shall establish, by policy, procedures governing requests for
49 information and appeals that reflect the requirements of this section. The governing board may
50 designate the process to be used by parents when submitting requests for information, and shall

1 display information on the procedures for requests for information and appeals along with other
2 parental rights, as required by G.S. 115C-76.6.

3 (e) A decision of a governing body under this section is final and is not subject to judicial
4 review.

5 **"§ 115C-76.10 through § 115C-76.15.** Reserved for future codification.

6 "Part 4. Notifications of Student Physical and Mental Health.

7 **"§ 115C-76.16. Notifications of student physical and mental health.**

8 (a) The governing board of a public school unit shall adopt procedures to notify a parent
9 of the following:

10 (1) At the beginning of each school year, notice of each health care service offered
11 at his or her child's school, and the means for the parent to provide consent for
12 any specific service. A parent's consent to a health care service does not waive
13 the parent's right to access his or her child's educational records or health
14 records or to be notified of changes in his or her child's services or monitoring.

15 (2) At the beginning of each school year, procedures to exercise the parental
16 remedies provided by G.S. 115C-76.19.

17 (3) Prior to administration to students in kindergarten through third grade, a copy
18 of any student well-being questionnaire or health screening form and the
19 means for the parent to consent to the use of the questionnaire or form for his
20 or her child.

21 (4) Prior to or contemporaneous with changes, notice of changes in services or
22 monitoring related to his or her child's mental, emotional, or physical health
23 or well-being, and the school's ability to provide a safe and supportive learning
24 environment for that child.

25 (5) Prior to any changes in the name or pronoun used for a student in school
26 records or by school personnel, notice to the parent of the change.

27 (b) In accordance with the right of parents provided in Article 29E of this Chapter, the
28 procedures shall include a requirement that school personnel do one or both of the following:

29 (1) Encourage a child to discuss issues related to the child's well-being with his
30 or her parent.

31 (2) Facilitate discussion of the issue with the child's parents.

32 (c) The procedures shall not prohibit parents from accessing any of their child's education
33 and health records created, maintained, or used by the public school unit, except as follows:

34 (a) As limited by G.S. 115C 407.54(6).

35 (b) When a reasonably prudent person would believe that disclosure would result
36 in the child becoming an abused juvenile or neglected juvenile, as those terms
37 are defined in G.S. 7B-101.

38 (d) The governing board and public school unit shall not adopt procedures or forms that
39 do any of the following:

40 (1) Prohibit school employees from notifying a parent about his or her child's
41 mental, emotional, or physical health or well-being or a change in related
42 services or monitoring.

43 (2) Encourage or have the effect of encouraging a child to withhold from that
44 child's parent information about his or her mental, emotional, or physical
45 health or well-being or a change in related services or monitoring.

46 (e) School personnel shall not discourage or prohibit parental notification of and
47 involvement in critical decisions affecting a student's mental, emotional, or physical health or
48 well-being.

49 **"§ 115C-76.17. Student support training.**

1 Student support services training developed or provided by a public school unit to school
2 personnel shall adhere to student services guidelines, standards, and frameworks established by
3 the Department of Public Instruction.

4 **"§ 115C-76.18. Age-appropriate instruction for grades kindergarten through third grade.**

5 Instruction on sexual orientation or gender identity shall not be included in the curriculum
6 provided in grades kindergarten through third grade, regardless of whether the information is
7 provided by school personnel or third parties. For the purposes of this section, curriculum
8 includes the standard course of study and support materials, locally developed curriculum,
9 supplemental instruction, and textbooks and other supplementary materials."

10 **"§ 115C-76.19. Remedies for parental concerns.**

11 (a) The governing board of a public school unit shall adopt procedures for a parent to
12 notify the principal at his or her child's school regarding concerns about a public school unit's
13 procedure or practice under this Part, and a process for resolving those concerns within seven
14 days of the date of notification by the parent. If the parental concern has not been resolved within
15 30 days following the date of notification by the parent, the public school unit shall provide a
16 statement of the reasons for not resolving the concern.

17 (b) If a concern is not resolved by the public school unit within 30 days, a parent may do
18 either of the following:

19 (1) Notify the State Board of Education of the concern and request a parental
20 concern hearing. The State Board shall establish rules for parental concern
21 hearings. At a minimum, the rules shall require the following:

22 a. The State Board of Education shall appoint a qualified hearing officer.
23 To qualify as a hearing officer, an individual must be a member in
24 good standing of the North Carolina State Bar with demonstrated
25 experience in education or administrative law within the last five
26 years.

27 b. The hearing shall be conducted in accordance with rules established
28 by the State Board.

29 c. The hearing officer shall determine facts related to the dispute over the
30 public school unit's procedure or practice, consider information
31 provided by the public school unit, and render a recommended
32 decision for resolution to the State Board of Education within 30 days
33 after assignment to the parental concern hearing.

34 d. The State Board shall approve or reject the recommended decision at
35 its next regularly scheduled board meeting held more than seven days
36 after receipt of the recommended decision.

37 e. The public school unit shall pay for the costs of the hearing officer.

38 (2) Bring an action against the public school unit as provided in Article 26 of
39 Chapter 1 of the General Statutes for a declaratory judgment that the unit's
40 procedure or practice violates this Part. The court may award injunctive relief
41 to a parent, and shall award reasonable attorneys' fees and costs to a parent
42 awarded injunctive relief.

43 (c) The provisions of this section are in addition to any other remedies or procedures
44 authorized or permitted by law."

45 **SECTION 2.(b)** By June 30, 2023, the Department of Public Instruction shall review
46 and update, as necessary, all of the following in accordance with this act:

47 (1) School counseling frameworks and standards.

48 (2) Educator practices and professional conduct principles.

49 (3) Other student services and school personnel guidelines, standards, or
50 frameworks.

1 **SECTION 2.(c)** This section is effective when it becomes law, and applies beginning
2 with the 2022-2023 school year.

3
4 **PART III. PARENTAL AUTHORIZATION FOR HEALTH CARE OF MINORS**

5 **SECTION 3.(a)** Article 1A of Chapter 90 of the General Statutes is amended by
6 adding a new Part to read:

7 "Part 3. Parental Consent for Treatment.

8 **"§ 90-21.15. Definitions.**

9 The following definitions apply in this Article:

10 (1)-(2) Reserved.

11 (3) Health care practitioner. – An individual who is licensed, certified, or
12 otherwise authorized under this Chapter, Chapter 90B, Chapter 90C, or
13 Chapter 115C to provide health care services in the ordinary course of
14 business or practice of a profession or in an approved education or training
15 program, or an agent or employee of that individual.

16 (4) Health care facility. – A health care facility, licensed under Chapters 131E or
17 122C of the General Statutes, where health care services are provided to
18 patients, including:

19 1. An agent or employee of the health care facility that is licensed,
20 certified, or otherwise authorized to provide health care
21 services.

22 2. The officers and directors of a health care facility.

23 (5) Minor child. – Any person under the age of 18 who has not been married or
24 has not been emancipated pursuant to Article 35 of Chapter 7B of the General
25 Statutes.

26 (6) Reserved.

27 (7) Treatment. – Any medical procedure or treatment, including X rays, the
28 administration of drugs, blood transfusions, use of anesthetics, and laboratory
29 or other diagnostic procedures employed by or ordered by a health care
30 practitioner that is used, employed, or ordered to be used or employed
31 commensurate with the exercise of reasonable care and equal to the standards
32 of medical practice normally employed in the community where the health
33 care practitioner administers treatment to the minor child.

34 **"§ 90-21.16. Parental consent for treatment.**

35 (a) Except as otherwise provided in this Article or by court order, a health care
36 practitioner shall not provide, solicit, or arrange treatment for a minor child without first
37 obtaining written consent from that minor child's parent.

38 (b) Except as otherwise provided in this Article or by court order, a health care facility
39 shall not allow treatment to be performed on a minor child in its facility without first obtaining
40 written consent from that minor child's parent.

41 (c) This section does not apply to services provided by a clinical laboratory, unless the
42 services are delivered through a direct encounter with the minor child at the clinical laboratory
43 facility.

44 **"§ 90-21.17. Penalty.**

45 A health care practitioner or other person that violates this section is subject to disciplinary
46 action by the board that licensed, certified, or otherwise authorized the health care practitioner to
47 provide treatment, including a fine of up to five thousand dollars (\$5000.00)."

48 **SECTION 3.(b)** This act becomes effective December 1, 2022, and applies to
49 violations committed on or after that date.

50
51 **PART IV. EFFECTIVE DATE.**

1

SECTION 4. Except as otherwise provided, this act is effective July 1, 2022.