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Rep. Packard, Rock. 16  
Rep. M. Pearson, Rock. 34  
Rep. Terry, Belk. 7  
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2023-1146h  
07/10

## Floor Amendment to HB 10-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2  
3 1 Declaration of Purpose. The general court reaffirms United States Supreme Court and New  
4 Hampshire Supreme Court rulings when it finds that it is a fundamental right of parents to direct  
5 the upbringing, education, and care of their minor children. The general court further finds that  
6 important information relating to a minor child, including information relating to the minor child's  
7 health, wellbeing, and education, should not be withheld from the child's parents, either  
8 inadvertently or purposefully, unless there is a compelling reason to do so. The general court further  
9 finds it is necessary to establish a consistent mechanism for parents to be notified of information  
10 relating to the health and well-being of their minor children.

11 2 New Chapter; Parent's Bill of Rights. Amend RSA by inserting after chapter 169-H the  
12 following new chapter:

### 13 CHAPTER 169-I 14 PARENT'S BILL OF RIGHTS

15 169-I:1 Short Title. This chapter may be cited as the Parent's Bill of Rights.

16 169-I:2 Definitions. In this chapter:

17 I. "Parent" means a person who has legal custody of a minor child as a natural or adoptive  
18 parent or a legal guardian, but such term shall not include a parent as to whom the parent-child  
19 relationship has been terminated by judicial decree or voluntary relinquishment.

20 II. "Minor" means a person under the age of 18 years.

21 III. "Compelling state interest" means a circumstance wherein the physical safety of the  
22 child has been harmed or is threatened with harm of such a grave nature by the actions or inactions  
23 of the child's parent or parents that the state or its agencies or instrumentalities are justified in  
24 acting to protect the child without the knowledge or consent of a parent or in withholding  
25 information about the child from the parent or parents. Potential or actual psychological or  
26 emotional injury to a child from a parent's actual, threatened, or anticipated reaction to learning  
27 information about his or her child, including emotions such as anger, disappointment, sadness,  
28 disapproval or other behaviors does not constitute a compelling state interest for withholding  
29 information about the child from a parent, but such injury, if sufficiently serious, may constitute  
30 grounds for taking action against the parent for abuse or neglect under RSA chapter 169-C.

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1 Although there are many circumstances in which a state actor, such as a teacher or a school, may act  
2 in loco parentis, the mere fact that such a state actor is acting in this capacity is not sufficient to  
3 establish a compelling state interest. To establish a compelling state interest a state actor must be  
4 able to demonstrate the existence of actual or threatened physical harm to the child by clear and  
5 convincing evidence based on specific, detailed, and reliable information. Even when a compelling  
6 state interest exists, a state actor must use the means for satisfying the interest that is the least  
7 infringing to the parental rights described in this chapter and must do so only for the minimum time  
8 necessary to accomplish its objective.

9 169-I:3 Infringement of Parental Rights Prohibited. The state; any of its political subdivisions,  
10 including, without limitation, any school board, school district, or school administrative unit; any  
11 other governmental entity; any other institution; or any agents or employees of any of the foregoing,  
12 shall not infringe upon or violate on the fundamental rights of a parent, as delineated in RSA 169-I:4  
13 or other law, to direct the upbringing, education, health care, and mental health care of his or her  
14 minor child without demonstrating that such action is reasonable and necessary to achieve a  
15 compelling state interest as defined in RSA 169-I:2, III.

16 169-I:4 Parental Rights.

17 I. All parental rights are reserved to the parent of a minor child in this state without  
18 obstruction or interference from the state, any of its political subdivisions, including, without  
19 limitation, any school board, school district, or school administrative unit, any other governmental  
20 entity, or any other institution. Such parental rights include, but not limited to, all of the following  
21 rights of a parent of a minor child in this state:

22 (a) The right to direct the upbringing and the moral or religious training of their minor  
23 child.

24 (b) The right to direct the education of their minor child, including the right to choose to  
25 enroll their child in their assigned resident public school, a public charter school, an approved  
26 nonpublic school, home education program, or education freedom account program, per RSA 193:1  
27 and RSA 194:F:1, et seq.

28 (c) The right to request their child be enrolled in a public school other than the public  
29 school assigned to them by their residence to avoid a manifest educational hardship, per RSA 193:3.

30 (d) The right to enroll their child in a private school, including a religious school, a home  
31 education program, or other available options, as authorized by law, as an alternative to public  
32 education, per RSA 193:1 and RSA 194:F-1, et seq.

33 (e) The right to obtain access for their child in public curricular courses and co-curricular  
34 programs offered by the local school district where the student resides while choosing to enroll their  
35 child in a non-public school, public charter school, home education or education freedom account  
36 program, per RSA 193:1-c; RSA 194-F:2, II (d).

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1           (f) The right to inspect any instructional material used as part of the educational  
2 curriculum for the student. The procedures will provide reasonable access to instructional materials  
3 within a reasonable period of time after the request is received, per 20 U.S.C. section 1232h,  
4 (c)(1)(C).

5           (g) The right to exempt their minor child from immunizations per RSA 141-C:20-a and  
6 141-C:20-c.

7           (h) The right to exempt their public-school student from participating in the required  
8 statewide assessments (English language arts, mathematics, and/or science), per RSA 193-C:6.

9           (i) The right to receive information regarding the level of achievement and academic  
10 growth of their child in each of the state academic assessments (English language arts, mathematics,  
11 and/or science), per Every Student Succeeds Act, Section 1112 (e)(1)(B)(i).

12           (j) The right to opt out of health or sex education under RSA 186:11, IX-b and any other  
13 objectionable material under RSA 186:11, IX-c.

14           (k) The right to access and review all education records relating to their minor children  
15 within 14 days after the day the school receives a request for access pursuant to RSA 189:66, IV and  
16 34 C.F.R. section 99.5.

17           (l) The right to be promptly notified if a criminal offense has been committed against  
18 their minor child, unless the criminal activity was a simple assault involving students in  
19 kindergarten through grade 12, per RSA 193-D:4.

20           (m) The right to be notified whenever seclusion or restraint has been used on the child,  
21 per RSA 126-U:7.

22           (n) The right to be informed of the school district's policy regarding discipline policies  
23 and procedures, per RSA 193:13.

24           (o) The right to be advised of any non-academic survey or questionnaire to be  
25 administered to students and the requirement that the parent consent to a child completing such a  
26 survey or questionnaire and the right to opt their child out of the Youth Risk Behavior Survey  
27 developed by the Centers for Disease Control and Prevention, per RSA 186:11, IX-d.

28           (p) The right to make health care decisions for their minor child, unless otherwise  
29 prohibited by law. This right includes decisions pertaining to end-of-life treatments and care for a  
30 child with a terminal condition. Additionally, this right includes the right to obtain multiple medical  
31 opinions and select the appropriate course of treatment for their children.

32           (q) The right to be physically present at any health care facility licensed pursuant to  
33 RSA 151:2 at which their minor child is receiving hospital care.

34           (r) The right to access and review all medical records of his or her minor child, unless  
35 prohibited by law; if the parent has been convicted of any crime against the minor child; or if the  
36 parent is the subject of an investigation of a crime committed against the minor child and a law  
37 enforcement agency has requested of the applicable court that the information not be released.

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1           (s) The right to consent in writing before a biometric scan of their minor child is made,  
2 shared, or stored, pursuant to RSA 189:65 and RSA 189:68.

3           (t) The right to consent in writing before any record of their minor child's blood or  
4 deoxyribonucleic acid (DNA) is created, stored, or shared, except as required by law or authorized  
5 pursuant to a court order.

6           (u) The right to consent in writing before the state or any of its political subdivisions,  
7 including, without limitation, any school board, school district, or school administrative unit acting  
8 pursuant to the provisions of RSA 189:68, III- V, makes a video or voice recording of their minor  
9 child unless such recording is made during or as part of a court proceeding or is made as part of a  
10 forensic interview in a criminal or other investigation by the bureau of child protective services or is  
11 to be used solely for the purpose of a safety demonstration, including the maintenance of order and  
12 discipline in the common areas of a school or on student transportation vehicles.

13           (v) The right to be informed of, and provide consent to, any medical procedure to be  
14 performed on their minor child, except when allowed under RSA 132:34 or RSA 141-C:18, and  
15 notwithstanding any emergency medical treatment the child may have already received.

16           (w) The right to be informed, upon inquiry, if their child is being called by any name  
17 other than the name under which the child was enrolled in the school.

18           (x) The right to be informed, upon inquiry, if the child, at or before the time of inquiry, is  
19 being identified as having a gender or pronouns other than that which was recorded or used when  
20 the child was enrolled.

21           (y) The right to know, upon inquiry, what extracurricular activities, clubs, or  
22 organizations their child is participating in or has participated in at or before the time of inquiry.

23           II. Federal law provides for additional parent and family involvement for schools that are  
24 receiving Title I, Part A; Title I, Part C (migrant); and Title III, Part A (EL) funds, including:

25           (a) The right to receive information, including student reports, in an understandable and  
26 uniform format and to the extent practicable, in a language that parents can understand, per  
27 Sections 1112(e)(4); 1114(b)(4); 1116(e)(5); and 1116(f).

28           (b) Upon request of the parent, the right to receive information regarding state  
29 qualifications of the student's classroom teachers and paraprofessionals providing services to the  
30 child, per Section 1112(e)(1)(A)(i-ii).

31           (c) The right to receive an annual local educational agency report card that includes  
32 information on such agency as a whole and each school served by the agency, per Section  
33 1111(h)(2)(A-B)(i-iii).

34           (d) The right to request that a student's name, address, and telephone number not be  
35 released to military recruiters without prior written consent by the parents.

36           III. This section does not:

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1           (a) Authorize a parent of a minor child to engage in conduct that is unlawful or to abuse  
2 or neglect his or her minor child in violation of law;

3           (b) Prohibit a court of competent jurisdiction, law enforcement officer, or employees of a  
4 government agency that is responsible for child welfare from acting in such person's official capacity  
5 within the reasonable and prudent scope of his or her authority, pursuant to RSA 186:11, IX-c.

6           IV. An employee of the state, any of its political subdivisions, including, without limitation,  
7 any school board, school district, or school administrative unit, or any other governmental entity  
8 that coerces a minor child to conceal a violation of this chapter from his or her parent shall be  
9 subject to disciplinary action.

10          V. The specific rights listed in this chapter do not comprise all of the inalienable parental  
11 rights possessed by the parent or parents of a minor child and nothing in this chapter shall be  
12 construed to restrict or limit any such rights that are not listed.

13          169-I:5 School Board Notification of Parent's Rights.

14          I. Each school board, school district, or school administrative unit shall, in consultation with  
15 parents, teachers, and administrators, develop, adopt and promulgate publicly a policy to promote  
16 parental involvement in the public school system. Such policy must include:

17           (a) A plan for parental participation in schools to improve parent and teacher  
18 cooperation in such areas as homework, school attendance, and discipline.

19           (b) A procedure for a parent to learn about his or her minor child's course of study,  
20 including the source of any supplemental education materials.

21           (c) Procedures for a parent to object to instructional materials and other materials used  
22 in the classroom. Such objections may be based on beliefs regarding morality, sex, and religion or  
23 the belief that such materials are harmful. For purposes of this section, the term "instructional  
24 materials" shall include, without limitation, all materials used in the classroom, including  
25 workbooks and worksheets, handouts, software, applications, and any digital media made available  
26 to students.

27           (d) Procedures for a parent to withdraw his or her minor child from any portion of the  
28 school district's health education program that relates to sex education or instruction in acquired  
29 immune deficiency syndrome or any instruction regarding sexuality if the parent provides a written  
30 objection to his or her minor child's participation. Such procedures must provide for a parent to be  
31 notified in advance of the content of such courses so that the parent may withdraw his or her minor  
32 child from those portions of the course.

33           (e) Procedures for a parent to learn about the nature and purpose of clubs and activities  
34 offered at his or her minor child's school, including those that are extracurricular or part of the  
35 school curriculum.

36           (f) Procedures for a parent to learn about parental rights and responsibilities under  
37 general law, including all of the following:

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1           (1) The right to opt his or her minor child out of any portion of the school district's  
2 health education program that relates to sex education instruction in acquired immune deficiency  
3 syndrome education or any instruction regarding sexuality.

4           (2) The right of a parent to exempt his or her minor child from immunizations as per  
5 the provisions of RSA 141-C:20-a relative to immunizations.

6           (3) The right of a parent to receive statewide, standardized assessment results.

7           (4) The right of a parent to enroll his or her minor child in gifted or special education  
8 programs if the child qualifies for such programs.

9           (5) The right of a parent to inspect school district instructional materials.

10          (6) The right of a parent to access information relating to the school district's  
11 policies.

12          (7) The right of a parent to receive a school report card and be informed of his or her  
13 minor child's attendance requirements and compliance with such requirements.

14          (8) The right of a parent to access information relating to the state public education  
15 system, state standards, report card requirements, attendance requirements, and instructional  
16 materials requirements.

17          (9) The right of a parent to participate in parent-teacher associations and  
18 organizations that are sanctioned by a school board or the department of education.

19          (10) The right of a parent to opt out of any district-level data collection relating to  
20 his or her minor child not required by federal or state law.

21          II. A school board may provide the information required in this section electronically or post  
22 such information on its website. Additionally, at the beginning of each new school year a school  
23 board shall provide to parents a written copy a document which shall be titled, "Parents' Bill of  
24 Rights," which shall be consistent with this chapter, and which shall inform parents of the following:

25           (a) You have the right and expectation to question and address your child's school  
26 officials via letters, electronic communications, and in person meetings including elected school  
27 board meetings. You also have the right to attend publicly designated meetings with proper notice of  
28 the meetings provided.

29           (b) You have the right and expectation to question and review curriculum taught in your  
30 child's school by questioning your school board and school administrators during public comment  
31 periods at publicly designated meetings.

32           (c) You have the right and expectation that academic curriculum taught in your child's  
33 school aligns with New Hampshire and federal law.

34           (d) You have the right and expectation to participate in the selection and approval of  
35 academic standard for the State of New Hampshire.

36           (e) You have the right and expectation to access educational materials and curriculum  
37 taught to your child in the classroom and school.

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- 1 (f) You have the right to run as a candidate for your local school board.
- 2 (g) You have the right to make decisions regarding vaccinations and immunizations for  
3 your child.
- 4 (h) You have the right and expectation to make medical decisions on behalf of your child.
- 5 (i) You have the right and expectation to receive your child's student health records.
- 6 (j) You have the right to receive special education services on behalf of your child with a  
7 disability.

8 III. A parent may request, in writing, from the district school superintendent the  
9 information required under this section pursuant to RSA 91-A.

10 169-I:6 Parental Consent for Health Care Services.

11 I. Except as otherwise provided by law or a court order, a health care practitioner or an  
12 individual employed by such health care practitioner may not provide or solicit or arrange to provide  
13 health care services, or prescribe or provide medicinal drugs to a minor child without first obtaining  
14 written parental consent.

15 II. Except as otherwise provided by law or a court order, a health care provider may not  
16 allow a medical procedure to be performed on a minor child in its facility without first obtaining  
17 written parental consent.

18 III. This section does not apply to services provided by a clinical laboratory, unless the  
19 services are delivered through a direct encounter with the minor at the clinical laboratory facility.

20 IV. This section does not apply to emergency services pursuant to RSA 153-A:18.

21 V. A health care practitioner or other person who violates this section is subject to  
22 disciplinary action.

23 169-I:7 Violations.

24 I. A knowing violation of any provision of this chapter by an individual shall constitute a  
25 class A misdemeanor.

26 II. Any parent claiming violation of any provision of this chapter may bring an action for  
27 injunctive relief and damages in the superior court against the state or any of its political  
28 subdivisions, including, without limitation, any school board, school district, or school administrative  
29 unit; any other governmental entity; or any physician, clinician, therapist, counselor, or other person  
30 alleged to be responsible for or to have caused the violation. Should the parent prevail in such  
31 action, in addition to ordering other remedies, the court may award to the parent his or her  
32 reasonable attorneys' fees and court costs, including such attorneys' fees and court costs incurred in  
33 connection with an appeal to the supreme court.

34 III. Any teacher or administrator with certification to teach found to have knowingly  
35 violated any section of this chapter may have his or her teaching credentials suspended by the state  
36 board of education for up to one year for a first offense, and may have his or her credentials revoked  
37 for a subsequent offense. A school employee that is not a teacher may be placed on unpaid leave by

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1 the school district for some or all of the remainder of the school year for a first offense, and may have  
2 his or her employment terminated for a subsequent offense. Any contractor or third party employed  
3 by a school that knowingly violates any section of this chapter may be ordered to pay a civil penalty  
4 of up to \$2,500 and be prohibited from working at all schools in the district for 1 year for a first  
5 violation, and may be ordered to pay a civil penalty of up to \$5,000 plus be permanently barred from  
6 working at all schools in the district for a subsequent offense. Proceedings to enforce the provisions  
7 of this paragraph shall be held before the state board of education, which shall ensure that before  
8 making any findings or imposing any sanctions provided for herein the person or entity complained  
9 against is afforded a hearing and all other requirements of due process of law. A contractor  
10 aggrieved by the decision of the state board of education and entitled to a jury trial under the  
11 constitution and may appeal such decision to the superior court and obtain a jury trial in that forum.

12 IV. Any medical or mental health professional found guilty of knowingly violating any  
13 portion of this law may have his or her license suspended by the agency by which such person is  
14 licensed following such agency's usual disciplinary procedures for up to one year for a first offense  
15 and permanently revoked for a subsequent offense.

16 3 Effective Date. This act shall take effect 120 days after its passage.