

Senate Children and Family Law Committee

Joshua Schauer 271-3077

SB 72-FN, establishing a parents' bill of rights in education.

Hearing Date: February 3, 2025

Time Opened: 10:00 a.m.

Time Closed: 11:25 a.m.

Members of the Committee Present: Senators Abbas, Sullivan and Long

Members of the Committee Absent : None

Bill Analysis: This bill establishes a parents' bill of rights, what constitutes a violation of such rights, and a mechanism to notify parents of their rights.

Sponsors:

Sen. Lang

Sen. Birdsell

Sen. Murphy

Sen. Innis

Sen. Gannon

Sen. Ward

Sen. Gray

Sen. Avarad

Sen. McGough

Sen. Pearl

Sen. Abbas

Sen. Carson

Sen. McConkey

Sen. Ricciardi

Sen. Rochefort

Sen. Sullivan

Rep. Osborne

Rep. Moffett

Who supports the bill: 37 people signed in Support. Please contact the aide for a full list; Joshua.schauer@gc.nh.gov

Who opposes the bill: 202 people signed in opposition. Please contact the aide for a full list; Joshua.schauer@gc.nh.gov

Who is neutral on the bill: Debrah Howes: President of the American Federation of Teachers - New Hampshire, Courtney Tanner: Senior Director of Public Relations at Dartmouth Health, Ian Huyett: Cornerstone

Summary of testimony presented in support:

Senator Lang: Senate District 2

- Senator Lang introduced the bill which establishes a parental bill of rights in education and what constitutes a violation of such rights. It creates a mechanism to notify parents when a violation occurs.
- He expressed that SB 72 reaffirms parents' fundamental rights and responsibilities to direct the upbringing of education and care for their child. No

educational institution shall withhold information about a child from a parent without a compelling state interest.

- He asked, “Why do we need this bill?”
- Senator Lang proceeded to read off a list of rights spread throughout the laws of the State passed throughout the past decade. He claims that the laws are not uniform for New Hampshire parents to be able to find unless they have a legal background.
- This bill requires that schools put a notice together and give it to parents at the start of the academic year in a clear and concise way. This notice will establish the rights of parents given them by law.
- This bill says that parents are responsible, and they have rights. It requires the school to uphold those parental rights.

Senator Long asked if he agreed that there should be consistency throughout the state on telling parents what exactly their rights are?

Senator Lang said that if you look on Page 2, starting on Line 25. It lists all the rights of the parent and the school must provide all those rights on that list in a notice at the beginning of a school year. Consolidating the rights into one place for consistency.

Senator Long asked about the statute where it lists the rights of parents, “Is this all that the bill is requiring?”

Senator Lang reiterated his introduction that all of section 189-B:3, which is parental rights, be consolidated and provided to the parents in one document by the school district.

Senator Sullivan inquired as to whether this legislation will expand parental rights?

Senator Lang stated that there were some components that are not currently in law. He references the new language on Page 1 where it talks about the fundamental rights of the upbringing of a child where there is a clear and concise statement that he didn't believe was an expansion but more of a clarification.

Senator Sullivan asked if he knew about the current litigation in the city of Manchester regarding parents' rights and if this legislation (SB 72) would help the situation of those parents.

Senator Lang replied that schools would not be able to withhold information under this legislation and it would make it clear and concise for the court.

Senator Abbas asked “for the sake of enforceability, what's the remedy parents can seek if they choose to litigate?”

Senator Lang addressed the concern by pointing to Page 5 of the legislation which states that parents may seek injunctive relief and monetary damages against the school, not a teacher, but the school institution.

Senator Long followed up that if they go after the district and the district wins, is there an avenue in which a parent can seek a civil suit?

Senator Lang stated that there are no criminal penalties in the legislation, it's a civil remedy, not a criminal. So, it will not be against an individual. Nowhere in this law does it allow a parent to go after a teacher.

Kimberly Allan: Educator from Hudson

- Expressed her support for SB 72 in education, which is crucial to fundamental rights to children and passing this bill with an amendment to address mental health services. As a parent she has experienced many downfalls in not having rights.
- Teachers and schools did many things without notifying her. Schools should respect and involve parents in their children's lives.
- SB 72 will create transparent communication with parents and schools. Ensuring that parents are informed and involved in major decisions affecting their children.
- The parental bill of rights includes provision such as the right to access of records, prompt notification of violation of a child, right to be informed of the schools discipline policies and procedures, and others.
- She stated that she would like to see this amended to add mental health services.
- Ms. Allan Urged support for this bill and the advocacy of mental health services amendment.

Senator Abbas inquired if the school provided any explanation for the violation against her regarding treating her child without notifying her?

Ms. Allan stated that the school went through the assistant principal and counselor, and both had assumed the other contacted her and believed it was okay to move forward.

Ann-Marie Banfield: Parental Rights Advocate

- Came in support of SB 72 but has some concerns that she wants to address with committee members.
- The balance of power always has always been in favor of the schools and this bill will give it back to the parents.
- Children attending NH schools have had their personal mental health data shared without outside organizations like Keene state. This is a violation of guidance counselors code of ethics and the right to privacy guaranteed in the New Hampshire Constitution. Counselors are supposed to protect the privacy of the records, but administrators are ignoring those rights and sharing personal identifiable data. This is done without parental or student consent.

- Ms. Banfield claimed that schools use blanket consent forms. She said that school districts make students or parents sign a waiver at the beginning of the year and then exploit it to get mental health assessments or send students to counseling.
- She stated that she fully supports opt-in programs. Schools are unethical in their current form but with an opt-in program for students, it would be more ethical and reasonable. Parents should be informed and consent if research or data is being collected on the their students.
- Ms. Banfield gave an example of a child who was playing with a friend at school and received a cut. The school then sent the student to get a psych evaluation without parents' consent because of blanket consent forms.
- She said she would like this legislation to be amended. There is no privacy in public schools. The school system is hostile against parents and will not share information with parents. No parent knows where the information is going. No information or data on children/students should be released or collected without a parent's consent.

Summary of testimony presented in opposition:

Susan Stevens: Sanbornton

- Ms. Stevens said that she fundamentally opposes this bill and that it leaves too much open to litigation.
- She claimed that there are some students that talk to their parents and others that do not and there are many reasons as to why some kids do not talk to their parents but rather keep it between the student and the teacher. This legislation would prevent those kids that do not have a good home-life from confiding in a trusted teacher.
- She inquired that if some students can go to private schools because of this bill, does that mean her tax dollars will be going to kids in other towns to go to charter and private schools?

Senator Abbas asked if a parent were to specifically inquire to a teacher about a student, does the teacher not have an obligation to be honest and straightforward about their child?

- Ms. Stevens said that if a student says don't tell my parents, should the teacher not have the right to their own discretion and make that decision if it is in the best interest of the child's safety?
- She went on to say that if New Hampshire starts legislating what teachers can say, it creates a hostile environment for teachers.

Senator Sullivan pointed to the Manchester school district which states that teachers do not have to share information with parents, this opens the door for communication with parents and teachers. She also stated that New Hampshire charter schools are “actually publicly funded schools”, so your tax dollars are already going to those schools.

- Ms. Stevens responded that this is a Manchester problem, not a state problem and this creates problems in other schools across the state such as Exeter and Sanbornton. This creates a whole can of worms for other rural school districts and should be a school board problem according to locality.

Brian Hawkins: NEA New Hampshire

- Told committee members he agrees with President Howes, that on Page 5 line 3-5. They have suggested language for that section that was given to committee members. Some of the parental rights look to be an expansion and seem to be a little vague but with the amendment offered, it can be more concise.
- He asked the committee how this would interact with the rights of other parents that disagree with the direction of the classroom?
- He stated that there are opt-out laws that are currently in place and asked how this legislation would affect those current laws?
- He also pointed to Page 4 lines 14-17, it refers to children’s fundamental rights, this is a new section and NEA is concerned with how this will alter how a teacher disciplines and operates in a classroom. NEA suggests giving some clarity to this section in order for teachers to be able to be effective in their positions.

Senator Abbas asked Mr. Hawkins in reference to his comment about freedom of speech in the classroom, “where is the confusion?” Senator Abbas stated that swearing is not a protected form of speech.

- Mr. Hawkins stated that there are limitations of speech in a public building and want to ensure there are no roadblocks to teachers being able to teach effectively. NEA wants to make sure this legislation is not conflicting with educators’ ability to follow the policies and procedures of a school when it comes to these types of situations.

Senator Abbas asked if the freedom of speech was the only vague part in the section? Referring to Page 4 Lines 14-17.

- He said those were examples, but as he stated before, this would create clarity and highlight specifically what the bill does not want to do which is what the amendment and suggested language NEA gave would do.
- He suggested changes such as “*No school or school personnel shall knowingly infringe upon the rights of parents*”. This adjustment makes the language more

concrete and doesn't leave any vagueness which NEA believes the current language in the bill does.

David Trumble

- Mr. Trumble stated that he opposes the bill for two reasons, the first being the question of “does this expand parental rights?” The second being the bill asserts that schools cannot withhold any information from parents.
- He then provided an example of a gay son in a school system that addresses his concerns with a teacher. The child says the mother is okay with it, but the dad will kick him out of the house if he knows. Mr. Trumble asks the committee if the teacher should reveal that information to the parents?
- Mr. Trumble said that children should have a voice in making choices about their own lives.
- He pointed to *Doe v. New Hampshire* that went to the NH supreme court and the court's decision was based on the New Hampshire constitution. The court stated, “while the parents right to raise their children extends to the public-school setting, it is not an unqualified right”. The Manchester school places no limits on the plaintiff's ability to parent their child as they see fit. They have a self-help remedy for parents and students.
- He argued that parents should not need this bill because they can talk to their children already. This gives students zero rights. It creates a hostile environment for LGBTQ students. Schools are sometimes safe places for these students and if this legislation passes, it creates another unsafe place for them.

Senator Sullivan said that regarding the Manchester Case, ... she was familiar with the case and family. She said that the child was “crying out for help” and the parent reached out to the school and if the parent did not continue to look for answers from the school, that child would have been a casualty. She went on to say that all parents are not abusive and if the argument being made is that all parents are assumed to be abusive. Then that argument cannot be why the legislature does not pass this bill. This new legislation will create pathways for parents to have a close relationship with teachers.

- Mr. Tumble stated that he did not think all parents were abusive. He clarified that the NH Supreme Court allows teachers to sometimes choose not to disclose information to parents if the safety of the child is in question. He said it should not be 100% strict scrutiny that teachers must inform parents of everything they know in every situation. A school should never withhold information from the parent but this bill goes too far.

He proposed language that should include *the best judgment of the school using the preponderance of the evidence*. This will allow the teacher or school to use their best

judgment. The way the bill is currently written says that a teacher is no longer a trusted adult.

Neutral Information Presented:

Debrah Howes: President of the American Federation of Teachers - New Hampshire

- Representing members K-12 across the state. Neutral on bill.
- Ms. Howes stated that this bill is straightforward, and it includes things already set in law, but has some suggestions to make clarifications.
- She pointed to Page 2 Line 27-28, *the right of a parent regarding his or her child*. That is a blanket statement that opens it up to vagueness. She also directed the committee members to look at Page 1 in the declaration of purpose. While we (teachers) do acknowledge parents have the right to direct the education of their child, however when you're talking about sending a child to public school your rights cannot dictate another parent's rights.
- Parents' concerns can be addressed at the school board and choose to implement policies that recognize all parents' voices. This needs to be in the legislation in order to be clear that while parents have a right to speak up for their child, it does not mean one single parent can decide what the school district teaches. This ensures the equal value and weight of each parent.
- Another concern she had was on Page 5 Line 4. She told the committee it appeared to be a confusion of reporting neglect. If a teacher sees signs of neglect, they are to report it and people who investigate the incident decide whether to go further. They are not allowed to investigate for themselves as teachers. When teachers see something, they follow the chain of reporting and that is the job of teachers to keep children safe.
- Ms. Howes said that she did not want any confusion or change of standards when it comes to things like reporting because it can change the way teachers report neglect, self-harm, or any safety concerns of a student.

Courtney Tanner: Senior Director of Public Relations at Dartmouth Health

- Ms. Tanner highlighted that the testimony being heard was about standards and underscored other testimony about other pieces of the bill.
- She looked at Page 3, Line 34. She said there is a provision for access to medical records, suggested this section should be contemplated to include HIPA standards for professional persons.
- She stated that there was other federal regulations that protect vulnerable populations such as privacy protections for students 12 and older.
- Additionally, she pointed to Page 4 lines 11, *relative to the right to be informed and provide consent of medical procedures*. There are some procedures not

contemplated in the bill, for example STD's and substance use. The children 12 and older have access to these procedures but are not stated in this legislation.

- The Department of Health always champions parental involvement whether that includes medical care inside or out of schools, the law should incorporate federal laws. Ensure children 12 and older are given these rights afforded to them.

Senator Abbas asked, in reference to Page 4 Lines 11-13, "Ms. Tanner, you suggested adding STD and substance abuse care. Are schools treating students for STDs?"

- Ms. Tanner stated that she is with the department of Health and Human Services not the Education department, therefore couldn't speak to that.

Senator Long said he knows of some States that require training in parental rights law and asks if there should be training for school personnel?

- Ms. Tanner said she cannot answer because she does not work for schools.