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April 30, 2025
2025-1832h
11/06

Amendment to SB 72-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT establishing a parental bill of rights.

4

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

6

7 1 Declaration of Purpose.

8 I. The general court finds and affirms that parents have a fundamental liberty interest to
9 raise and care for their minor children, as well as make decisions concerning their care and custody,
10 and this fundamental liberty interest is protected under both the federal and New Hampshire
11 constitutions.

12 II. The general court further finds that it is a child's parents who have the responsibility,
13 means, and resources to ensure that a child receives appropriate health care, social support,
14 religious guidance, and moral inculcation to develop into happy and productive members of society.

15 III. Accordingly, the general court further finds that parents have the right to access, be
16 notified of, and be provided with all information relating to these rights, and that it is necessary to
17 establish a consistent mechanism for parents to be notified of information relating to the health,
18 well-being, and educational progress of their minor children while those children are in the custody
19 and control of a school or any other government entity.

20 2 New Chapter; Parental Bill of Rights. Amend RSA by inserting after 169-H the following new
21 chapter.

22

CHAPTER 169-I

23

PARENTAL BILL OF RIGHTS

24 169-I:1 Short Title. This chapter may be cited as the Parental Bill of Rights.

25 169-I:2 Definitions. In this chapter:

26 I. "Parent" means a person who is the legal natural or adoptive parent of a minor child. A
27 legal guardian appointed pursuant to RSA 463:2, IV shall be deemed to be a parent for as long as
28 guardianship is in force. The term "parent" shall not apply to a person whose rights to a child have
29 been either voluntarily surrendered or involuntarily terminated pursuant to law.

Amendment to SB 72-FN
- Page 2 -

1 II. "Parental rights and responsibilities" shall have the same meaning as care, custody, and
2 control, and shall include parenting time, decision making, and residential responsibility pursuant
3 to RSA 461-A:1, et seq. Parents for whom such rights to care, custody, or control of a child have been
4 abridged, halted, modified, or suspended, shall have their rights restored upon a showing by a
5 preponderance of the evidence that it is in the child's best interest, and the child is returned to
6 parental care.

7 III. "Minor" means an unemancipated person under the age of 18 years.

8 IV. "Compelling state interest" means the governmental interest in the welfare of a child
9 which includes, but is not limited to, parental rights and responsibilities pursuant to RSA 461-A:1 or
10 abuse or neglect pursuant to RSA 169-C:3.

11 V. "School" shall include, without limitation, any public school board, public school district,
12 public school administrative unit, or public charter school.

13 VI. "School personnel" shall include any teacher, administrator, employee, or other
14 individual acting in furtherance of or on behalf of any public school.

15 VII. "Infringement" for the purposes of this chapter includes, but is not limited to, knowingly
16 concealing or withholding information required to be disclosed to a minor child's parent pursuant to
17 this chapter or providing intentionally misleading or intentionally inaccurate responses.

18 169-I:3 Infringement of Parental Rights Prohibited. The state; any of its political subdivisions,
19 including, without limitation, any school; any other governmental entity; or any other institution
20 may not infringe on the fundamental rights of a parent to direct the upbringing, education, health
21 care, and mental health of his or her minor child without demonstrating that such action is
22 necessary to achieve a compelling state interest, that such action is narrowly tailored, and that such
23 interest is not otherwise served by less restrictive means.

24 169-I:4 Parental Rights.

25 I. All parental rights are reserved to the parent(s) of a minor child in this state without
26 obstruction or interference from the state, any of its political subdivisions, including, without
27 limitation, any school, any other governmental entity, or any other institution. These rights include,
28 but are not limited to, the right:

29 (a) To direct the upbringing and the moral or religious training.

30 (b) To direct the education, including the right to choose to enroll the minor child in an
31 assigned resident public school, a public charter school, a non-public school, including a religious
32 school, a home education program, or any other state-based education program, as authorized by
33 law, as an alternative to public education, as set forth in RSA 193:1 and RSA 194-F:1, et seq.

34 (c) To request that a minor child be enrolled in a public school other than the public
35 school assigned to them by their residence to avoid a manifest educational hardship, as set forth in
36 RSA 193:3.

Amendment to SB 72-FN
- Page 3 -

1 (d) To enroll his or her minor child in gifted or special education programs if the child
2 qualifies for such programs.

3 (e) To inquire of the school or school personnel and promptly receive accurate, truthful,
4 and complete disclosure regarding any and all matters related to their minor child, unless an
5 immediate answer cannot be provided when the initial request is made, in which case, the answer
6 shall be provided no later than 10 business days after the request.

7 (f) To be informed of the school's policy regarding discipline policies and procedures, as
8 set forth in RSA 193:13.

9 (g) To obtain access for a minor child to public curricular courses and co-curricular
10 programs offered by the local school district where the student resides while choosing to enroll their
11 child in a non-public, public chartered, home education, or any other state-based education program,
12 as set forth in RSA 193:1-c and RSA 194-F:2, II(d).

13 (h) To inspect any instructional material used as part of the educational curriculum
14 within a reasonable period following a request, as set forth in 20 U.S.C. section 1232h(c)(1)(C).

15 (i) To opt out of health or sex education and any other objectionable material, as set
16 forth in RSA 186:11, IX-b and IX-c.

17 (j) To be advised of and have the right to opt the minor child out of any nonacademic
18 survey or questionnaire.

19 (k) To opt out of any district-level data collection relating to his or her minor child not
20 required by federal or state law.

21 (l) To exempt their public-school minor child from participating in required statewide
22 assessments in English, language arts, mathematics, and/or science, as set forth in RSA 193-C:6.

23 (m) To receive information regarding the level of achievement and academic growth of
24 their minor child in the state academic assessments in English, language arts, mathematics, and/or
25 science, as set forth in the Every Student Succeeds Act, 20 U.S.C. section 1112 (e)(1)(B)(i).

26 (n) To receive a school report card and be informed of his or her minor child's attendance
27 requirements and compliance with such requirements.

28 (o) To access and review all education records relating to their minor child within 10
29 business days after the day the school receives a request for access, as set forth in RSA 189:66, IV
30 and 34 C.F.R. 99.5.

31 (p) To consent in writing before the state or any of its political subdivisions, including,
32 without limitation, any school; pursuant also to the provisions of RSA 3 189:68, III-V makes a video
33 or voice recording, unless such recording is made during or as part of a court proceeding or part of a
34 forensic interview in a criminal or other investigation by the bureau of child protective services or it
35 is to be used solely for the purpose of a safety demonstration, including the maintenance of order and
36 discipline in the common areas of a school or on student transportation vehicles.

Amendment to SB 72-FN
- Page 4 -

1 (q) To be notified whenever seclusion or restraint has been used on their minor child as
2 set forth in RSA 126-U:7.

3 (r) To be notified promptly if an employee of the state, any of its political subdivisions,
4 any other governmental entity, or any other institution suspects that a criminal offense has been
5 committed against his or her minor child, unless the incident has first been reported to law
6 enforcement or the bureau of child protective services, and notifying the parent would impede the
7 investigation.

8 (s) To be informed of, and provide consent to, any medical procedure or treatment to be
9 performed on their minor child, except pursuant to RSA 132:34, RSA 141C:18, or for the provision of
10 emergency medical treatment, including mental health treatment.

11 (t) To access and review all medical records of their minor child maintained by a school
12 or school personnel, unless otherwise prohibited by law.

13 (u) To make health care decisions unless otherwise prohibited by law.

14 (v) To be physically present at any health care facility providing care pursuant to RSA
15 151:2.

16 (w) To consent in writing before a biometric scan is made, shared, or stored pursuant to
17 RSA 189:65 and RSA 189:68.

18 (x) To consent in writing before any blood or deoxyribonucleic acid (DNA) is created,
19 stored, or shared, except as required by law or pursuant to a court order.

20 (y) To exempt their minor child from immunizations if, in the opinion of a physician, the
21 immunization is detrimental to the child's health or because of religious beliefs, as set forth in RSA
22 141-C:20-a and RSA 141-C:20-c.

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); 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, as set forth
27 in 20 U.S.C. 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 their
30 minor child, as set forth in 20 U.S.C. 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, as set forth in 20
33 U.S.C. section 1111(h)(2)(A-B)(i-iii).

34 169-I:5 School Board Notifications on Parental Rights.

35 I. Each school shall, in consultation with parents and school personnel, develop, adopt, and
36 promulgate publicly a policy to promote parental involvement in the school. Such policy must
37 include:

Amendment to SB 72-FN
- Page 5 -

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

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

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

11 (d) Procedures for a parent to withdraw his or her child from any portion of the school
12 district's health education program that relates to sex education or instruction in acquired immune
13 deficiency syndrome education or any instruction regarding sexuality if the parent provides a
14 written objection to his or her minor child's participation. Such procedures must provide for a
15 parent to be notified in advance of such course content so that he or she may withdraw his or her
16 child from those portions of the course.

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

20 (f) Procedures for a parent to learn about parental rights and responsibilities under law.

21 II. Each school board shall publish the Parental Bill of Rights as set forth in RSA 169-I:4, in
22 their annual reports. Each school board shall also publish the Parental Bill of Rights on their
23 website and in their school handbook or similarly intended publication.

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

26 169-I:6 Parental Consent for Health Care Services.

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

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

34 III. Any person who violates any section of this chapter may be subject to disciplinary action
35 and any and all penalties as prescribed by law.

36 169-I:7 Exceptions.

37 I. Nothing in this chapter shall:

Amendment to SB 72-FN
- Page 6 -

1 (a) Authorize a parent of a minor child in this state to engage in conduct that is unlawful
2 or to abuse 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 their official capacity.

5 (c) Require disclosure of information provided to any counselor, school psychologist,
6 school nurse, or other certified health care provider where the information provided was reasonably
7 expected to be privileged.

8 169-I:8 Violations.

9 I. No school or school personnel shall infringe upon any of the parental rights set forth in
10 RSA 169-I:4, unless the infringement is supported by clear and convincing evidence and is narrowly
11 tailored to address the compelling state interest.

12 II. Any violation of the provisions of this chapter are subject to liability for damages caused
13 by said violation and courts may fashion such remedies as justice requires.

14 169-I:9 Severability. If any provision of this chapter or its application to any person or
15 circumstance is held invalid, the invalidity does not affect other provisions or applications of this
16 chapter which can be given effect without the invalid provision or application, and to this end the
17 provisions of this chapter are severable.

18 169-I:10 Applicability. No provision of this chapter is meant to restrain or interfere with any
19 state or local law enforcement agency investigations of criminal violations of New Hampshire law by
20 a minor.

21 3 Effective Date. This act shall take effect July 1, 2025.