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Model Parents' Bill of Rights¹

Section 1. The liberty interest of a parent in the nurture, education, care, health care, medical care, mental health care, custody, and control² of the parent's child is a fundamental right *recognized by the United States Constitution and the Constitution of the State of _____*³.

Section 2. No agency or officer of this state nor any agency or officer of any subdivision of this state shall infringe fundamental parental rights except as provided by law narrowly tailored to meet a compelling governmental interest by the least restrictive means.

Section 3: All parental rights are reserved to the parent of a minor child in this state without obstruction or interference from the state, any of its political subdivisions, any other governmental entity, or any other institution, including, but not limited to, all of the following rights of a parent of a minor child in this state:

¹ As of October 2022, 15 states have some form of state legislation enshrining parental rights as a fundamental right. *See*, West Virginia (W. Va. Code § 44-10-7, as extended by *In re Willis*, 157 W.Va. 225, 207 S.E.2d 129 (WV 1973)); *see also* W. Va. Code § 49-1-1(a) and W. Va. Code § 49-6D-2(a)); Kansas (Kan. Stat. Ann. § 38-141(2)(b)); *see also* Kan. Stat. Ann. § 60-5305(a)(1)); Michigan (Mich. Comp. Laws § 380.10); Texas (Texas Family Code § 151.003); Utah (Utah Code Ann. § 62A-4a-201; *see also* Utah Code Ann. § 30-5a-103); Colorado (Colo. Rev. Stat. § 13-22-107(1)(a)(III)); Arizona (Ariz. Rev. Stat. § 1-601); Nevada (Nevada Rev. Stat. Ann. § 126.036); Virginia (Va. Code Ann. § 1-240.1); Oklahoma (Okla. Stat. tit. 25, § 2001—2005); Idaho (Idaho Code § 32-1012 – 1013); Wyoming (Wyo. Stat. Ann. § 14-2-206); Florida (Fla. Stat. § 1014.03); Montana (Mont. Code Ann. § 40-6-701); Georgia (Ga. Code Ann. § 20-2-786).

² *Troxel v Granville*, 530 US 57 (2000) at 65: “**The liberty interest** at issue in this case—**the interest of parents in the care, custody, and control of their children** is perhaps the oldest of the **fundamental** liberty interests recognized by this Court” (bolding added).

³ Phrases in *italics* may be included or omitted on a state-by-state basis.

- (a) The right to direct the education and care of his or her minor child.
- (b) The right to direct the upbringing and the moral or religious training of his or her minor child.
- (c) The right, pursuant to *[cite to state code regarding education enrollment, as applicable]* to apply to enroll his or her minor child in a public school or, as an alternative to public education, a private school, including a religious school, a home education program, or other available options, as authorized by law.
- (d) The right, pursuant to *[cite to relevant state code, if any, regarding a parent's right to review school records]* to access and review all school records relating to his or her minor child.
- (e) The right to make health care decisions for his or her minor child, unless otherwise prohibited by law.
- (f) The right to access and review all medical records of his or her minor child, unless prohibited by law or if the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement agency or official requests that the information not be released.
- (g) The right to consent in writing before a biometric scan of his or her minor child is made, shared, or stored.
- (h) The right to consent in writing before any record of his or her minor child's blood or deoxyribonucleic acid (DNA) is created, stored, or shared, except as required by general law or authorized pursuant to a court order.
- (i) The right to consent in writing before the state or any of its political subdivisions makes a video or voice recording of his or her minor child unless such recording is made during or as part of a court proceeding or is made as part of a forensic interview in a criminal or *[insert name of state CPS office or Department]* investigation or is to be used solely for the following purposes:
1. A safety demonstration, including the maintenance of order and discipline in the common areas of a school or on student transportation vehicles;
 2. A purpose related to a legitimate academic or extracurricular activity;
 3. A purpose related to regular classroom instructions;
 4. Security or surveillance of buildings or grounds; or

5. A photo identification card.

(j) The right to be notified promptly if an employee of the state, any of its political subdivisions, any other governmental entity, or any other institution suspects that a criminal offense has been committed against his or her minor child, unless the incident has first been reported to law enforcement or the *[insert name of state CPS office or Department]* and notifying the parent would impede the investigation.

Section 4: This act does not:

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

(b) Condone, authorize, approve, or apply to a parental action or decision that would end life;

(c) Prohibit a court of competent jurisdiction, law enforcement officer, or employees of a government agency that is responsible for child welfare from acting in his or her official capacity within the reasonable and prudent scope of his or her authority in a manner not inconsistent with this Act; or

(d) Prohibit a court of competent jurisdiction from issuing an order that is otherwise permitted by law.

Section 5: An employee of the state, any of its political subdivisions, or any other governmental entity who encourages or coerces, or attempts to encourage or coerce, a minor child to withhold information from his or her parent may be subject to disciplinary action.

Section 6: A parent of a minor child in this state has inalienable rights that are more comprehensive than those listed in this section, unless such rights have been legally waived or terminated. This chapter does not prescribe all rights to a parent of a minor child in this state. Unless required by law, the rights of a parent of a minor child in this state may not be limited or denied. This chapter may not be construed to apply to a parental action or decision that would end life.

Section 7:⁴

(1) Each district school board shall, in consultation with parents, teachers, and administrators, develop and adopt a policy to promote parental involvement in the public school system. Such policy must include:

⁴ The subparagraphs in this section may need to be modified on a state-by-state basis to reflect applicable existing law, and to cite to such laws.

- (a) A plan for parental participation in schools to improve parent and teacher cooperation in such areas as homework, school attendance, and discipline.
- (b) A procedure for a parent to learn about his or her minor child’s course of study, including the source of any supplemental education materials.
- (c) Procedures for a parent to object to instructional materials and other materials used in the classroom. Such objections may be based on beliefs regarding morality, sex, and religion or the belief that such materials are harmful. For purposes of this section, the term “instructional materials” has the same meaning as in *[cite to relevant statute, if applicable]* and may include other materials used in the classroom, including workbooks and worksheets, handouts, software, applications, and any digital media made available to students.
- (d) Procedures for a parent to withdraw his or her minor child from any portion of the school district’s comprehensive health education required under *[cite to relevant statute, if applicable]* that relates to sex education or instruction in acquired immune deficiency syndrome education or any instruction regarding sexuality if the parent provides a written objection to his or her minor child’s participation. Such procedures must provide for a parent to be notified in advance of such course content so that he or she may withdraw his or her minor child from those portions of the course.
- (e) Procedures for a parent to learn about the nature and purpose of clubs and activities offered at his or her minor child’s school, including those that are extracurricular or part of the school curriculum.
- (f) Procedures for a parent to learn about parental rights and responsibilities under general law, including all of the following:
1. The right to opt his or her minor child out of any portion of the school district’s comprehensive health education required under *[cite to relevant statute, if applicable]* that relates to sex education instruction in acquired immune deficiency syndrome education or any instruction regarding sexuality.
 2. A plan to disseminate information, pursuant to *[cite to relevant statute, if applicable]*, about school choice options, including open enrollment.⁵

⁵ This subparagraph may need to be modified on a state-by-state basis to reflect applicable existing law, or should be eliminated entirely, particularly if no school choice provision exists in state law.

3. In accordance with *[cite to relevant school attendance immunization exemption law]* the right of a parent to exempt his or her minor child from immunizations.
4. In accordance with *[cite to relevant statute, if applicable]*, the right of a parent to review statewide, standardized assessment results.
5. In accordance with *[cite to relevant statute, if applicable]*, the right of a parent to enroll his or her minor child in gifted or special education programs.
6. In accordance with *[cite to relevant statute, if applicable]*, the right of a parent to inspect school district instructional materials.
7. In accordance with *[cite to relevant statute, if applicable]*, the right of a parent to access information relating to the school district's policies for promotion or retention, including high school graduation requirements.
8. In accordance with *[cite to relevant statute, if applicable]*, the right of a parent to access information relating to the school district's policies for promotion or retention, including high school graduation requirements.
9. In accordance with *[cite to relevant statute, if applicable]*, the right of a parent to access information relating to the state public education system, state standards, report card requirements, attendance requirements, and instructional materials requirements.
10. In accordance with *[cite to relevant statute, if applicable]*, the right of a parent to participate in parent-teacher associations and organizations that are sanctioned by a district school board or the Department of Education.
11. In accordance with *[cite to relevant statute, if applicable]*, the right of a parent to opt out of any district-level data collection relating to his or her minor child not required by law.

(2) A district school board may provide the information required in this section electronically or post such information on its website.

(3) A parent may request, in writing, from the district school superintendent the information required under this section. Within 10 days, the district school superintendent must provide such information to the parent. If the district school superintendent denies a parent's request for information or does not respond to the parent's request within 10 days, the parent may appeal the denial to the district school

board. The district school board must place a parent's appeal on the agenda for its next public meeting. If it is too late for a parent's appeal to appear on the next agenda, the appeal must be included on the agenda for the subsequent meeting.

Section 8:

(1) Except as otherwise provided by law, a health care practitioner, as defined in *[cite to relevant statute, if applicable]*, or an individual employed by such health care practitioner may not provide or solicit or arrange to provide health care services or prescribe medicinal drugs to a minor child without first obtaining written parental consent.

(2) Except as otherwise provided by law or a court order, a provider, as defined in *[cite to relevant statute, if applicable]*, may not allow a medical procedure to be performed on a minor child in its facility without first obtaining written parental consent.

(3) This section does not apply to an abortion, which is governed by *[cite to relevant statute, if applicable]*.

(4) This section does not apply to services provided by a clinical laboratory, unless the services are delivered through a direct encounter with the minor at the clinical laboratory facility. For purposes of this subsection, the term "clinical laboratory" has the same meaning as provided in *[cite to relevant statute, if applicable]*.

(5) A health care practitioner or other person who violates this section is subject to disciplinary action pursuant to *[cite to relevant statute, if applicable]*, as applicable, and commits a misdemeanor of the first degree, punishable as provided in *[cite to relevant statute, if applicable]*.

Section 9: A parent of a student may bring an action for violations of their parental rights under this code section and seek a declaratory judgment and injunctive relief. A court may award damages and shall award reasonable attorney fees and court costs to a parent who receives declaratory or injunctive relief.

Section 9 Alternate Language: When a parent's fundamental rights protected by this section are violated, a parent may assert that violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against the governmental entity. The prevailing party in an action filed pursuant to this section is entitled to reasonable attorney fees and costs.

Section 9 Alternate Language: When a parent's fundamental rights protected by this act are violated, a parent may assert that violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against the governmental entity. If a

parent prevails in a civil action against the state, or a political subdivision thereof, the parent is entitled to reasonable attorney's fees and costs.