

POLICY PAGES

Parental Rights under Arizona Law

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OVERVIEW

Parents have the right, as well as the responsibility, to direct their children’s upbringing in a manner consistent with their beliefs and with knowledge of each child’s unique needs, talents, and abilities.

The United States Supreme Court has recognized the importance of parental rights and has repeatedly held that parents possess the “fundamental right” to “direct the upbringing and education of their children.” *Troxel v. Granville*, 530 U.S. 57, 65 (2000). The Court has repeatedly reaffirmed, “the child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.” *Id.* (citing *Pierce v. Society of Sisters*, 268 U.S. 510, 534-35 (1925)).

The State of Arizona recognizes this fundamental right, and therefore has a robust set of laws that protect parental rights to direct a child’s upbringing, education, and health care.

ANALYSIS

Center for Arizona Policy (CAP) supports the right of parents to direct the upbringing, education, and health care of their children, and has advocated for these rights at the Arizona Legislature for almost twenty-five years.

PARENTS’ BILL OF RIGHTS

Recognizing the need to protect parental rights in state law, CAP worked with the Arizona Legislature in 2010 to pass the Parents’ Bill of Rights. This statute sets forth the broad rule of parental rights: “The liberty of parents to direct the upbringing, education, health care and mental health of their children is a fundamental right”(A.R.S. § 1-601(A)). The government may not interfere with parental rights unless it demonstrates a compelling state interest “of the highest order, is narrowly tailored and is not otherwise served by a less restrictive means” (A.R.S. § 1-601(B)). This standard allows for children to be protected from abusive situations, while still ensuring that parents’ rights are not infringed by government officials who may simply believe



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they know better than a parent ([A.R.S. § 1-602\(B\)](#)). Arizona law recognizes a parent's right to:

- Direct the education of their child, including the right to access and review all educational records.
- Direct the upbringing of their child.
- Direct the moral or religious training of their child.
- Make all healthcare decisions for their child.
- Request, access and review all medical written and electronic records relating to their child.
- Provide written permission before a biometric scan is performed on their child.
- Provide written permission before any record of their child's blood or DNA is created, stored, or shared.
- Provide written permission before any videos or voice recordings are made of their child, with certain exceptions (for example, security or surveillance of school property).
- Be notified promptly if there is suspicion that a criminal offense has been committed against their child.
- Access information about a Department of Child Safety investigation involving the parent and their child.

However, parents' rights are not limited to those enumerated in the statute: "[u]nless those rights have been legally waived or legally terminated, parents have inalienable rights that are more comprehensive than those listed in this section. This chapter does not prescribe all rights of parents or preempt or foreclose claims or remedies in support of parental rights that are available under the constitution, statutes, or common law" ([A.R.S. § 1-602\(D\)](#)).

The law also prohibits the government or any of its employees from "[a]ny attempt to encourage or coerce a minor child to withhold information from the child's parent" making such an action grounds for discipline of an employee of this state, any political subdivision of this state or any other governmental entity, except for law enforcement personnel." ([A.R.S. § 1-602\(C\)](#)).

In 2022, the Arizona Legislature recognized the need not only to affirm parental rights in the law but also to provide parents recourse when the government violates their parental rights. The law now prohibits the government or its officials from disrupting the rights of parents to direct the "upbringings, education, health care and mental health of their children" and provides a private right of action. Parents can bring suit in court against the government for violating their parental rights ([A.R.S. § 1-602\(E\)](#)).

In parental rights lawsuits, the government is subject to a strict scrutiny standard. It must show 1) the interference with parental rights was "essential to accomplish a compelling government interest of the highest order" and 2) "that the method of interference . . . as narrowly tailored" and could not have been achieved through "less restrictive means" ([A.R.S. § 1-602\(F\)](#)). Courts can award parents not only declaratory and injunctive relief (*i.e.*, X was wrong and stop doing X) but also compensatory damages (money awarded to the parents to compensate for injury and loss) and

attorney's fees ([A.R.S. § 1-602\(G\)](#)).

PARENTAL RIGHTS AND EDUCATION

Arizona law also protects the right of parents to direct the education of their children. This includes the right to select the type of education the parent deems best for their child, including district, charter, private, homeschool, online or through the Empowerment Scholarship Account program ([A.R.S. § 15-802](#)). In addition to the parental rights listed in the Parents' Bill of Rights, Arizona law also spells out specific rights parents have if their child attends a district or charter school.

District Schools. In a district school, parents have the right to ([A.R.S. § 15-102](#)):

- Opt their child out of any learning material or activity that the parent finds harmful to their child. This includes material that questions beliefs or practices related to sex, morality, or religion.
- Opt their child out of any activity the parent deems objectionable because of sexual content, violent content, or profane or vulgar language ([A.R.S. § 15-113\(A\)](#)).
- Opt their child in to sex education instruction if provided by the school district. Without written parental permission, children cannot participate in sex education.
- Opt their child in to surveys that solicit personal information from the child ([A.R.S. § 15-117](#)).
- Review any proposed sex education curricula 60 days prior to its approval and also be notified at least two weeks before any instruction is offered.
- Be notified in advance and given the opportunity to opt their child into any classes or presentations on sexuality in classes other than sex education, such as history or literature ([HB 2035](#)).
- Opt their child into any video, audio, or electronic materials that are inappropriate for the age of the student. This means the school cannot show a rated-R movie to students under 18 years of age without signed, written permission from the child's parent ([A.R.S. § 15-113\(D\)](#)).
- Opt their child out of instruction on the acquired immune deficiency syndrome (AIDS).
- Excuse their child from school attendance for religious purposes.
- Be informed about the nature and purpose of extracurricular student clubs and activities.
- Access instructional materials and review courses of study and textbooks.
- Access all written and electronic records of the school district concerning their child including counseling and psychological records ([A.R.S. §15-143](#)).
- Refuse to provide information for the Student Accountability Information System that does not relate to the provision of educational services to the student ([A.R.S. § 15-1042\(D\)](#)).

For additional parental rights and responsibilities in district schools, see [A.R.S. § 15-102\(A\)\(7\)](#).

Charter Schools. In charter schools, parents have the right to ([A.R.S. § 15-113](#)):

- Opt their child out of any activity the parent deems objectionable because of sexual content, violent content, or profane or vulgar language. The charter school may require parents to waive this requirement as a condition of enrollment if the school provides a complete list of books and materials to be used during the school year.
- Opt their child in to any video, audio, or electronic materials that are inappropriate for the age of the student. This means the school cannot show a rated-R movie to students under 18 years old without signed, written permission from the child's parent.
- Opt their child in to sex education instruction if provided by the charter school. Without written parental permission, children cannot participate in sex education ([Ariz. Admin. Code § R7-2-303\(A\)\(1\)\(a\)\(i\)](#)).
- Opt their child in to surveys that solicit personal information from the child ([A.R.S. § 15-117](#)).
- Access all written and electronic records of the school district concerning their child including counseling and psychological records ([A.R.S. §15-143](#)).
- Be notified in advance and given the opportunity to opt their child into any classes or presentations on sexuality in classes other than sex education, such as history or literature ([HB 2035](#)).
- Be able to review any proposed sex education curricula 60 days prior to its approval and also be notified at least two weeks before any instruction is offered.

PARENTAL RIGHTS AND HEALTH CARE

Parents also have important rights regarding the medical care and treatment of their children under Arizona law. In addition to the health care provisions in the Parents' Bill of Rights discussed above, Arizona's parents have specific rights found elsewhere in state law, including:

- Requiring written permission before a mental health screening is performed on a minor in a non-clinical setting (*e.g.*, outside of a doctor's office or clinic) ([A.R.S. § 36-2272](#)).
- Requiring written permission before any mental health treatment is performed on a minor, unless it is an emergency ([A.R.S. § 36-2272](#)).
- Requiring written parental consent before a physician or entity performs or seeks to perform a surgical procedure on a minor ([A.R.S. § 36-2271](#)).
- Requiring parental consent before a pharmacist administers an immunization or vaccine to a minor ([A.R.S. § 32-1974\(M\)](#)).
- Requiring written parental consent before a minor donates blood ([A.R.S. § 44-134](#)).
- Opting a minor out of immunizations at the beginning of the school year due to parent's personal beliefs ([A.R.S. § 15-873\(A\)\(1\)](#)).

- Requiring notarized parental consent before a minor can have an abortion, unless the minor obtains a court order ([A.R.S. § 36-2152](#)).
- Requiring parental communication before a do-not-resuscitate order is placed on a minor's medical chart ([A.R.S. § 36-419](#)).

Unfortunately, parents' rights are undermined by two state laws that allow minors to consent to medical treatment without parental consent. State law allows a minor to seek treatment for a sexually-transmitted disease ([A.R.S. § 44-132.01](#)) or for substance abuse ([A.R.S. § 44-133.01](#)) without parental consent or involvement. Also, Arizona law does not require parental consent for prescription medications for minors, including contraceptives.

TALKING POINTS

- **Parents possess the fundamental right to direct the upbringing, education, and health care of their children.** The U.S. Supreme Court has repeatedly recognized this right, and the CAP-supported Parents' Bill of Rights acknowledges this right in Arizona law.
- **Parents, not government, have the right and responsibility to guide their child's education, especially when it comes to the sensitive issue of sex and human sexuality.**
- **Parental rights do not end when school begins.** Arizona law explicitly protects the rights of parents to direct their children's education, even within the public school system.

CONCLUSION

Parents have the solemn right and responsibility to raise their children according to their own sincerely held convictions. Government must always recognize this right and make every effort to support parents in the choices they make while raising their children. In Arizona, citizens should be aware of the extensive parental rights in state law and their ability to exercise them freely.
