

To: Ms. Natalie Castle, Director lcs.ga@coleg.gov

From: Ms. Marla F Benavides and Debra Carroll

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Date: February 3, 2023

Re: **Proposed initiative measure concerning the Fundamental Rights of Parents.**

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### **The Parent Right in Education**

Concerning the fundamental right of parents to direct the upbringing, education, and care of their minor children.

**Citizens' initiative:** 2023

**SUBJECT:**PARENT'S RIGHT AMENDMENT.

### **SUMMARY**

For Education years commencing on and after November 2024, the ballot initiative amends the how education refunds and credits are created. The amendment prohibits the government from appropriating taxpayer funds when parents or taxpayer opt out of public education, and provides a way to receive a refund or credit without limitation or restrictions.

**Article IX. Education. Section 16. ~~Textbooks in public~~ schools-Textbooks and technology, BIOMETRIC SCANNING, and parental involvement - request for information or healthcare of a minor child in public**

**schools.** BE IT ENACTED BY THE PEOPLE OF THE STATE OF COLORADO, AMENDS THE COLO. CONST. ART. IX, SECTION 16. The People further find that important information relating to a minor child should not be withheld, either inadvertently or purposefully, from his or her parent, including information relating to the minor child's health, well-being, and education, while the minor child is in the custody of the school district. The People also find it is necessary to establish a consistent mechanism for parents to be notified of information relating to the health and well-being of their minor children.

- 1) **Neither the general assembly nor the state board of education NOR THE DISTRICT BOARD OF EDUCATION shall have the power to prescribe textbooks, biometric scanning, health care WITHOUT PARENT-TEACHER INVOLVEMENT IN THE SELECTION OF TEXTBOOKS, OR CERTAIN TECHNOLOGY to be used in the public schools, and parental consent is needed when child in healthcare decisions and any biometric scanning filed.**
- 2) Biometric scanning records must be in writing and filed with the State, before the State or any of its political subdivisions, state, or district school board takes a photo or makes a video or voice recording of the minor child, unless the photo, video, or voice recording is to be used solely for any of the following purposes:
  - (a) A purpose related to a legitimate academic or extracurricular activity.
  - (b) A purpose related to regular classroom instruction.
  - (c) Security or surveillance of buildings or grounds; or
  - (d) A photo identification card; and
  - (e) Be notified promptly if an employee of a public-school suspects that a criminal offense has been committed against the minor.
  - (f) This subsection does not create a new obligation for a school to report misconduct between students at school to report misconduct between students, such as fighting or aggressive play, that is routinely addressed by the school as a student disciplinary matter.
- 3) **Request for information.** 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, or any other governmental entity, or any other institution, including, but not limited to, all the following rights of a parent of a minor child in this state:
  - b) The right to direct the education and care of his or her minor child.
  - c) The right to direct the upbringing and the moral or religious training of his or her minor child.

- d) The right 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, shall not be infringed.
- e) The right to access and review all school records relating to his or her minor child.
- f) The right to make health care decisions for his or her minor child, unless otherwise prohibited by law.
- g) 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.
- h) The right to consent in writing prior to a biometric scan of his or her minor child is made, shared, or stored.
- i) The right to consent in writing prior to 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.
- j) The right to consent in writing prior to 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 Department of Human Services: Children and Families 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.
    - a. A purpose related to regular classroom instructions.
    - b. Security or surveillance of buildings or grounds; or
    - c. A photo identification card.
- k) 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 Department of Human Services: Children and Families and notifying the parent would impede the investigation.
- l) This section does not:

1. 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.
  2. Condone, authorize, approve, or apply to a parental action or decision that would end life.
  3. 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; or
  4. Prohibit a court of competent jurisdiction from issuing an order that is otherwise permitted by law.
- m) 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 or fired.
  - n) 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 by a trial by jury of its peers only. This ensures the termination process fairer. 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 biological 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.
  - o) A biological parent's right to his or her child may not be terminated unless found guilty of crime and that beyond a reasonable doubt of abuse or neglect or the parent has voluntarily terminated his or her right. There must be a clear and present danger to the child for parental rights to be terminated. The clear and convincing evidentiary rule does not suffice in terminating parental rights.
  - p) The general assembly or the state or county board of education may not exclude parents from prescribing textbooks to be used nor exclude the parent from controlling the instruction of their children in classrooms.
  - q) The right of parents to receive a refund for their children's education in the event the parent opts-out of a government school.
  - r) The State treasury must appropriate any funds or monies available to the parents opting out of government education without reserve or penalties.

- s) Any funding raised by the government for schools belongs to the taxpayers. The taxpayers should have a choice of opting out of the government school without government oversight or recourse.
  - t) The government may not control where the any parent or taxpayer allocates their tax refund.
  - u) Neither the General Assembly, county, city, town, township, school district or other public corporation, shall prohibit aid to any parent or taxpayer or deny support or prevent any parent or taxpayer from using the funds to transfer to another school whether private, nonpublic homeschool, or other literary institution or sectarian denomination.
  - v) Parents have a right to choose the education that suits their children best and the government must not interfere with this right.
- 4) Parent shall have the right to opt their child(ren) out from participating in any school activity or program or assignment the parent deems objectionable or goes against their family values, morals or religious training. Neither the general assembly, nor any state or district school board, shall ever make any a parent or student comply with any comprehensive health mandate, treatment, therapy, procure abortion, sex education program.
- 5) **HEALTH CARE TO ANY MINOR CHILD- EXCEPTION - PENALTY.** Except as otherwise provided by law, the general assembly, or State school board, or district school board, a health care practitioner, or an individual employed by, such health care practitioner specifically shall 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.
- 1. Notwithstanding any other provision of law, an individual, corporation, association, organization, state-supported institution, or individual employed by any of these entities must not procure, solicit, to perform, or arrange for the performance of, or perform a surgical procedure upon a minor child without first obtaining written or verbal consent from the minor's parent that is immediately documented.
  - 2. Parental consent is always required unless parental rights have been terminated.

3. Except in life threatening conditions to save the life of the child, or by a court order, a provider may not allow a medical procedure to be performed on a minor child in its facility without first obtaining written parental consent.
4. This section applies to abortion procedures.
5. This section does not apply to services provided by a clinical laboratory unless the services are delivered through a direct encounter with the minor and the minor is accompanied by parent or legal guardian at the clinical laboratory facility.
6. For purposes of this subsection, the term “clinical laboratory” means the doctor’s office, hospital, or medical facility.
7. A health care practitioner or other person who violates this section is subject to disciplinary action and commits a misdemeanor of the first degree, punishable by Colorado criminal law.

(d) THIS AMENDMENT takes effect at 12:01 a.m. on the day following the November 2024 general election.