

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 4313

By Delegates Butler, Dillon, Crouse, Pinson, Brooks,
Mazzocchi, Kump, Kimble, Horst, C. Pritt, and Green

[Originating in the Committee on the Judiciary;

Reported on February 22, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §49-12-1, §49-12-2, §49-12-3, §49-12-4, and §49-12-5 all relating to the
3 Parents' Bill of Rights; creating a short title; providing legislative findings; creating
4 definitions; creating a standard of review; clarifying parental rights; creating a right of
5 action; creating a defense; and providing applicability.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. PARENTS' BILL OF RIGHTS.

§49-12-1. Short title.

1 This article may be cited as the "Parents' Bill of Rights."

§49-12-2. Legislative findings and definition.

1 (a) The Legislature finds that it is a fundamental right of parents to direct the upbringing,
2 education, care, and medical care of their minor children. The Legislature further finds that
3 important information relating to a minor child should not be withheld, either inadvertently or
4 purposefully, from his or her parent, including information relating to the minor child's health, well-
5 being, and education, while the minor child is in the custody of the school district.

6 (b) For purposes of this article, the term "parent" means a person who has legal custody of
7 a minor child as a natural or adoptive parent or a legal guardian.

§49-12-3. Infringement of parental rights.

1 The state, any of its political subdivisions, any other governmental entity, or any other
2 institution may not infringe on the fundamental rights of a parent to direct the upbringing,
3 education, health care, and mental health of his or her minor child without demonstrating that such
4 action is reasonable and necessary to achieve a compelling state interest and that such action is
5 narrowly tailored and is not otherwise served by a less restrictive means.

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§49-12-4. Parental rights.

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

5 (1) The right to direct the education and care of his or her minor child.

6 (2) The right to direct the upbringing and the moral or religious training of his or her minor
7 child.

8 (3) The right to apply to enroll his or her minor child in a public school or, as an alternative to
9 public education, a private school, including a religious school, a home education program, or
10 other available options, as authorized by law.

11 (4) The right to access and review all school records relating to his or her minor child.

12 (5) The right to make health care decisions for his or her minor child, unless otherwise
13 prohibited by law.

14 (b) The right to parental rights guaranteed by this article shall not be denied or abridged on
15 account of disability.

16 (c) A parent may bring suit against the state, any agency or locality thereof, any
17 government official, or any person acting under color of law based on any violation of this article
18 and seek appropriate relief, including, but not limited to, injunctive relief, monetary damages,
19 reasonable attorneys' fees, and court costs. A parent may also raise this article as a defense
20 before any court or administrative tribunal.

§49-12-5. Applicability.

1 This article applies to state and local laws, rules, or ordinances, and the implementation of
2 that law, rule, or ordinance, whether statutory or otherwise. Statutory law adopted after the date of
3 the enactment of this article is subject to this article unless such law explicitly excludes such
4 application by reference to this article.

