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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 3436

02/14/2022 Authored by Erickson and Scott
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; providing for transparency in curriculum; protecting parent's
1.3 rights; proposing coding for new law in Minnesota Statutes, chapter 120B.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. [120B.1999] PARENT'S RIGHTS.

1.6 Subdivision 1. Legislative findings. (a) The legislature finds that it is a fundamental
1.7 right of a parent to direct the upbringing, education, and care of the parent's minor child.
1.8 The legislature further finds that important information relating to a minor child should not
1.9 be withheld, either inadvertently or purposefully, from the child's parent, including
1.10 information relating to the minor child's health, well-being, and education, while the minor
1.11 child is in the custody of a school district. The legislature further finds it necessary for a
1.12 school to establish a consistent mechanism for a parent to be notified of information relating
1.13 to the health and well-being of the parent's minor child.

1.14 (b) For the purposes of this section, "parent" means a person who has legal custody of
1.15 a minor child as a natural or adoptive parent or a legal guardian.

1.16 Subd. 2. Infringement of parental rights. The state, any of its political subdivisions,
1.17 any other governmental entity, or any other institution must not infringe on the fundamental
1.18 rights of a parent to direct the upbringing, health, well-being, mental health, and education
1.19 of the parent's minor child without demonstrating that the potential infringement of parental
1.20 rights is reasonable and necessary to achieve a compelling state interest, and that the potential
1.21 infringement of parental rights is narrowly tailored and is not otherwise served by a less
1.22 restrictive means.

2.1 Sec. 2. **[120B.202] SUNSHINE IN LEARNING.**

2.2 Subdivision 1. Definitions. For the purposes of this section the following terms have
2.3 the meanings given:

2.4 (1) "learning materials" include but are not limited to the following: all textbooks, reading
2.5 materials, videos, audio recordings, presentations, digital materials, websites, instructional
2.6 handouts and worksheets, syllabi, and online applications for a phone, laptop, or tablet;

2.7 (2) "used for student instruction":

2.8 (i) means assigned, distributed, or otherwise presented to students in any course for
2.9 which students receive academic credit or in any educational capacity in which participation
2.10 of the student body is required by the school or in which most students in a given grade
2.11 level participate; and

2.12 (ii) applies also to any materials from which students are required to select one or more
2.13 if the available selection is restricted to specific titles;

2.14 (3) "original materials" means learning materials owned or licensed by the school district,
2.15 school, faculty, or staff that are used for student instruction;

2.16 (4) "activities" include but are not limited to assemblies, guest lectures, action-oriented
2.17 civics learning assignments or projects, including the actual or simulated contacting of
2.18 government officials or any requirement to advocate for or comment on a contemporary
2.19 political or social issue or participate in organized political activity, social demonstrations,
2.20 or other field trips or projects, service-learning, internships, or other forms of collaboration
2.21 with outside organizations after regular school hours for course credit or as a class project
2.22 or assignment, or other educational events facilitated by the institution's faculty or staff,
2.23 including those conducted by outside individuals or organizations, excluding presentations
2.24 given by students enrolled at the school; and

2.25 (5) "lesson plan" means the daily, weekly, or other routinely produced guide, description,
2.26 or outline of the instruction to be provided by a teacher to students at the school.

2.27 Subd. 2. School website. A school board or board of a charter school must ensure that
2.28 the following information is displayed on a school's website in an easily and publicly
2.29 accessible location:

2.30 (1) all instructional or training materials and activities used for staff and faculty training;

2.31 (2) all learning materials and activities used for student instruction. The display of
2.32 materials or activities must identify, at a minimum:

3.1 (i) the title, author, organization, and any website associated with each material and
3.2 activity;

3.3 (ii) a link to the learning material, if publicly available on the Internet or, if not freely
3.4 and publicly available, a brief description of the learning material and information on how
3.5 to request review of a copy of the learning material according to the curriculum review
3.6 procedure under section 120B.20;

3.7 (iii) if the learning material was created for nonpublic use the identity of the teacher,
3.8 staff member, school official, or outside presenter who created it. A teacher, staff member,
3.9 or school official may be indicated by a personal title and last initial;

3.10 (iv) the full text or a copy of any learning materials or educational activities, including
3.11 presentations, videos, and audio recordings used for student instruction at the school, if
3.12 those works were created by the school's governing board or a teacher or staff member
3.13 employed under the authority of the governing board. This section does not require the
3.14 posting of academic assessments or academic tests; and

3.15 (v) if the activity involves service-learning, internships, or collaboration with outside
3.16 organizations after regular school hours for course credit, the name of the organization, and
3.17 the number of students engaged in service-learning, internships, or collaboration with that
3.18 organization. The names of the students involved must not be posted;

3.19 (3) any procedures for documentation, review, or approval of lesson plans, training,
3.20 learning, curricular materials, or activities used for staff and faculty training or student
3.21 instruction at the school, including by the principal, curriculum administrators, or other
3.22 teachers; and

3.23 (4) at each school with a catalog or documented inventory of the resources available to
3.24 students in its school library, a listing of available resources in the library.

3.25 Subd. 3. **Copyrighted material.** Nothing in subdivision 2 may be construed to require
3.26 the digital reproduction or posting of copies of the learning materials themselves, where
3.27 reproduction would violate copyright. When reproduction would violate copyright, a school
3.28 must offer a link to a publicly available website describing and offering access to the learning
3.29 materials. If the materials are not available free of charge, a school must offer, if available
3.30 and upon request, the learning materials for public inspection, as required under subdivision
3.31 2, clause (2), at the school building where the learning materials or activities are used for
3.32 student instruction. Materials must be provided, if available, no later than 30 days after
3.33 requested. To the extent practicable, a school must make all learning materials, including
3.34 original materials, available for public inspection and allow the public to copy, scan,

4.1 duplicate, or photograph portions of original materials within the limits of "fair use" as
4.2 provided by United States Code, title 17, section 107.

4.3 Subd. 4. **Individual components.** Subdivision 2 does not require the separate reporting
4.4 of individual components of learning materials that are published together as a single volume.
4.5 Articles, videos, or other materials from websites that are used for student instruction should
4.6 be identified where possible with an internet address specific to the relevant content used
4.7 for student instruction.

4.8 Subd. 5. **Posting information; timing.** The information required by subdivision 2 must
4.9 be displayed online no later than 14 days after the first instance of training or instruction.
4.10 The information must be organized by school, grade, teacher, and subject and remain
4.11 displayed on a school website for at least two years. For privacy purposes, teachers and
4.12 staff employed by a school may request that a school use a personal title and last initial in
4.13 lieu of a full name. The date of the latest modification or update to the information must be
4.14 displayed on the same website location.

4.15 Subd. 6. **Posting information; preparation.** To prepare and host the listing of materials
4.16 and activities under subdivision 2, a school:

4.17 (1) may but is not required to utilize a collaborative online document or spreadsheet
4.18 software that allows multiple authorized users to update or make additions to posted content
4.19 on an ongoing basis if a link to the listing is publicly accessible via a school website; or

4.20 (2) may but is not required to satisfy the requirements of subdivision 2, clause (2), by
4.21 posting a copy or the full text of the lesson plans submitted to a school principal or other
4.22 staff by instructors at a school in the current year, provided that the lesson plans provide
4.23 equivalent detail of the learning materials and activities used for student instruction as
4.24 required by subdivision 2, clause (2), and that any learning materials and activities not
4.25 recorded on the lesson plans are also disclosed via a publicly accessible portion of a school
4.26 website in the manner prescribed by subdivision 2, clause (2).

4.27 Subd. 7. **Violations.** The attorney general, commissioner of education, state auditor,
4.28 county attorney for the county in which an alleged violation of this section occurs, or a
4.29 resident of a school district in which an alleged violation of this section occurs, may initiate
4.30 legal action in the district court in the jurisdiction in which the school district, public school,
4.31 charter school, or other governmental entity responsible for the oversight of public secondary
4.32 or elementary schools is located for the purpose of complying with this section.

4.33 Subd. 8. **Legal opinion.** An attorney acting on behalf of a school district, public school,
4.34 charter school, or governmental entity responsible for the oversight of public secondary or

5.1 elementary schools may request a legal opinion of the attorney general as to whether a
5.2 particular piece of training, learning, or curricular material or activity meets criteria under
5.3 this section and has been disclosed in a manner that complies with this section.

5.4 Subd. 9. **Judicial review.** Upon complaint, the district court in the county in which the
5.5 school resides has jurisdiction to order the production of any learning materials or other
5.6 materials or activities, as specified in this section, improperly withheld from the complainant.
5.7 The court must determine the matter de novo and may examine the contents of the disputed
5.8 materials in camera to determine whether any part of the materials must be withheld. The
5.9 court may assess against the governing body of the school reasonable attorney fees and
5.10 other litigation costs reasonably incurred in any case under this section in which the
5.11 complainant has substantially prevailed. In the event of noncompliance with the order of
5.12 the court, the court may hold the responsible school official or employee in contempt. A
5.13 court must not be required to review a complaint under this section unless complainants
5.14 have first attempted to remedy the alleged noncompliance by contacting: (1) school officials
5.15 to resolve the noncompliance within 15 days, or, if still unresolved; (2) the school's governing
5.16 body to resolve the noncompliance within 45 days.