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**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

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**MEMORANDUM**

To: House Committee on K-12 Education Budget  
From: Office of Revisor of Statutes  
Date: February 15, 2022  
Subject: House Bill 2662 – Bill Brief

House Bill 2662 would establish three new sections of law to codify the parents' bill of rights and the requirement for school districts to establish academic transparency portals. HB 2662 would also amend the statute relating to the crime of promotion to minors of material that is harmful to minors and the statute relating to teacher evaluation policies of school districts.

**New Section 1**

Section 1 of HB 2662 would establish the parents' bill of rights. The bill provides a legislative statement of intent that a parent shall have a right to play a central role in a child's education, to obtain critical information about what is being taught or provided in the classroom and to take action when a parent feels that the quality or content of a child's education does not align with the values and expectations the parent expects and deserves.

HB 2662 would provide that a parent shall have a fundamental right to direct the upbringing, education, care and mental health of the parent's child and would establish the following parental rights:

1. The right to direct the education and care of such child;
2. The right to direct the upbringing and the moral or religious training of such child;
3. The right to request, access and inspect all written and electronic records maintained by a school relating to such child;

4. The right to be informed of and inspect the curriculum, instructional materials and any other materials that are made available or taught to such child in the child's school;
5. The right to attend publicly designated meetings of the local school board and the right to question and address school officials during designated public comment periods or through letters, electronic communications or in-person meetings;
6. The right to make healthcare and medical decisions for such child, including the right to make decisions regarding vaccinations and immunizations;
7. The right to expect that such child, and each teacher and educator of such child, shall not be compelled to affirm, believe, profess or adhere to any idea that violates the civil rights act of 1964;
8. The right to expect that no course of instruction or unit of study shall direct or otherwise compel the child to personally affirm, adopt or adhere to any idea that violates the civil rights act of 1964;
9. The right to expect that the child's school shall not contract for teacher professional development with providers that promote racially essentialist doctrines or practices that have been held to violate the civil rights act of 1964;
10. The right to expect that each teacher and educator of such child will endeavor to present facts without distortion, bias or personal prejudice;
11. The right to expect that each teacher and educator of such child shall work to eliminate coercion that forces teachers and educators to support actions and ideologies that violate individual professional integrity; and
12. The right to assert any other inalienable or constitutional right that is reserved to the parent and the child pursuant to state or federal law.

HB 2662 would require the board of education of each school district to develop policies in consultation with parents, teachers and school administrators that would guarantee a parent's right to be involved in the child's education. Such policies would be required to include procedures for a parent to:

- Be informed of and have the ability to inspect any materials and activities that are required to be posted on the parent transparency portal pursuant to section 2;
- Inspect and review any educational or health records that pertain to the child;
- Object to any learning material or activity on the basis that such material harms the child or impairs the parent's firmly held beliefs, values or principles and withdraw such child from the activity, class or program.
- Request that the school designate any book, magazine or any other material that is made available to students in the school library that is not already so designated as an item for which parental review is recommended as provide in section 2; and
- Challenge the material or educational benefit of any book magazine or any other material that is made available to students in the school library such that a successful challenge results in the removal of such item.

## **New Section 2**

Section 2 of HB 2662 would require the board of education of each school district to establish an internet-based parent transparency portal on the school district's website with a prominent link to the portal on the website homepage of the school district and each school that maintains its own website. Each school district's parent transparency portal would be required to provide the following information:

1. The parents' bill of rights;
2. A list organized by school, grade level and area of instruction that includes the academic and social and emotional learning materials, activities and curriculum that are used at each school. The list must include the title, author, organization, website address and any other information necessary to identify such items;
3. A link to the curriculum standards established by the state board of education shall be associated with each applicable grade level and subject matter;

4. A list organized by school, grade level and area of instruction that includes the following information for each test, questionnaire, survey and examination referred to in K.S.A. 72-6316, and amendments thereto, that is administered in any school of the school district:
  - A copy of each test, questionnaire, survey or examination;
  - the name of the company or entity that produces or provides the test, questionnaire, survey or examination;
  - an explanation of the purposes of the data collection, how the collected data is intended to be used and whether the data will remain private or reported as aggregate data;
  - an explanation of how such test, questionnaire, survey or examination benefits student learning and academic achievement; and
  - an explanation of whether the school district will receive or maintain the resulting data and an explanation of how the school intends to use and maintain such data;
5. A list organized by school, grade level and area of instruction, if applicable, that includes the professional development courses, training materials and related activities that were provided or offered to any licensed teacher or administrator of the school district. Such list shall include the title, author, organization, website address and any other information that is necessary for the identification of the courses, materials and activities;
6. A link to the catalog or a list of the inventory of school library resources. Such link or catalog shall clearly provide whether any book, magazine or other material is an item that is designated that parental review is recommended in accordance with subsection (b) and shall indicate whether a designation of parental review is recommended is due to sexual content, excessive profanity or excessive violence and shall provide a sample of the material that necessitates such designation;
7. Information on how a person may request and be given the opportunity to review and inspect any information that is required to be provided on the school district's parent transparency portal; and
8. The school district's policies adopted pursuant to section 1 that provide for parental involvement in a child's education.

Any book, magazine or material that is made available to students in the school library would be required to be designated as an item in which parental review is recommended if such item meets the standard for such designation pursuant to the following definition:

"Parental review is recommended" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture, film, record, video or any other written communication that:

- (1) (A) The average person applying contemporary community standards would find, taking the material as a whole and with respect to minors, is designed to appeal or pander to the prurient interest;
- (B) depicts, describes or represents, in a manner patently offensive with respect to what is suitable to minors, an actual or simulated sexual act or sexual contact or a lewd exhibition of the genitals or post-pubescent female breast; and
- (C) whether the work taken as a whole lacks serious literary, scientific, artistic or political value for minor;
- (2) contains excessive profanity; or
- (3) contains excessive violence.

A school district would be required to conduct a review of each book, magazine or material of each school library that was purchased on or after July 1, 2017, to determine whether any such item necessitates a designation of parental review is recommended. A school district would not be required to conduct a review of materials purchased prior to such date but would be required to designate any such material that is known to meet the criteria for a parental review is recommended designation. If there is any doubt regarding whether a book, magazine or material meets the criteria for a designation the school district shall resolve the doubt in favor of designating the material so that parents may make informed decisions regarding such material.

A school district would be required to review all such library materials that are purchased on and after July 1, 2022, and designate such materials as may be necessary. A parent would be authorized pursuant to the policies required to be adopted pursuant to section 1 to request that material be designated as material in which parental review is recommended and a school district must designate the item unless it unequivocally does not meet such criteria.

Each school district would be required to post and update the required information on an ongoing basis during each school year. All such information that is required to be posted must be

updated, posted and completed by June 30 of such school year. Once posted, the school district would be required to maintain such information on the website for at least two years.

HB 2662 would authorize the KSDE to provide guidance and assistance to school districts regarding the establishment and maintenance of the transparency portals.

HB 2662 would also authorize the attorney general, or the city, county or district attorney or a resident of the school district in which the school is located to bring a suit for injunctive relief or a writ of mandamus to compel a school district to comply with the requirements of the parent transparency portal. If a resident of a school district prevails in such an action, the court shall award such resident reasonable attorney fees not exceeding \$15,000.

### **Section 3**

Section 3 of HB 2662 defines terms that are commonly used throughout sections 1 and 2.

### **Section 4**

Section 4 of HB 2662 would amend K.S.A. 21-6402 relating to the crime of promotion to minors of material harmful to minors. Specifically, HB 2662 would remove the affirmative defense to the crime for public and private K-12 schools. The bill would also revise such law to affirmatively apply the law to public establishments in addition to its current application to commercial establishments.

This law makes it a crime for any person who has control of any such establishment to knowingly:

- Display material that is harmful to minors;
- Present or distribute to a minor, or allow a minor to view, any material that is harmful to minors; or
- Present to a minor any performance that is harmful to a minor.

Under K.S.A. 21-6402:

"Harmful to minors" means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement

or sadomasochistic abuse when the material or performance, taken as a whole or, with respect to a prosecution for an act described by subsection (a)(1), that portion of the material that was actually exposed to the view of minors, has the following characteristics:

(A) The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;

(B) the average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

(C) a reasonable person would find that the material or performance lacks serious literary, scientific, educational, artistic or political value for minors.

Violation of this crime is classified as a class B nonperson misdemeanor which could come with a sentence of up to 6 months in jail and a fine of up to \$1,000 for a violation.

### **Section 5**

Section 5 of HB 2662 would amend K.S.A. 72-2410 relating to teacher evaluation policies at school districts. The statute provides certain criteria for the development and requirements of such evaluation policies. HB 2662 would amend such statute to provide that no teacher who is subject to such evaluation shall be negatively evaluated or have such person's contract nonrenewed on the basis of such teacher's refusal to teach through critical pedagogy philosophies or against such person's sincerely held religious beliefs.