

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1953

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H.P. 1255

House of Representatives, May 16, 2023

**RESOLUTION, Proposing an Amendment to the Constitution of  
Maine to Establish a Parental Bill of Rights**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative POIRIER of Skowhegan.  
Cosponsored by Senator GUERIN of Penobscot and  
Representatives: DUCHARME of Madison, FAULKINGHAM of Winter Harbor,  
GREENWOOD of Wales, HENDERSON of Rumford, NESS of Fryeburg, PARRY of  
Arundel, SAMPSON of Alfred, WHITE of Guilford.

1           **Constitutional amendment. Resolved:** Two thirds of each branch of the  
2 Legislature concurring, that the following amendment to the Constitution of Maine be  
3 proposed:

4           **Constitution, Article IX, §26** is enacted to read:

5           **Section 26. Parental rights.**

6           **1. Definition.** As used in this section, unless the context otherwise indicates, "parent"  
7 means a person who has legal custody of a minor child as a natural or adoptive parent or a  
8 legal guardian, but does not include a parent with whom the parent-child relationship has  
9 been terminated by judicial decree or voluntary relinquishment.

10           **2. Infringement of parental rights prohibited.** The State, any of its political  
11 subdivisions, including, but not limited to, a school board, school district or school  
12 administrative unit, or any other governmental entity may not infringe on the fundamental  
13 rights of a parent to direct the upbringing and education of that parent's minor child without  
14 demonstrating that such action is reasonable and necessary to achieve a compelling state  
15 interest and that such action is narrowly tailored and cannot be achieved by less restrictive  
16 means.

17           **3. Parental rights.** The following provisions govern parental rights.

18           A. All parental rights are reserved to the parent of a minor child in this State without  
19 obstruction or interference from the State, any of its political subdivisions, including,  
20 but not limited to, a school board, school district or school administrative unit, or any  
21 other governmental entity. The rights reserved to the parent include but are not limited  
22 to:

23                   (1) The right to direct the education and care of the parent's minor child;

24                   (2) The right to direct the upbringing and the moral or religious training of the  
25 parent's minor child;

26                   (3) The right to apply to enroll the parent's minor child in a public school or, as an  
27 alternative to public education, a private school, including a religious school, a  
28 home education program or other available options, as authorized by law;

29                   (4) The right to access and review all school records relating to the parent's minor  
30 child; and

31                   (5) The right to be notified promptly if an employee of the State, any of its political  
32 subdivisions or any other governmental entity has a reasonable basis to believe that  
33 a criminal offense has been committed against the parent's minor child, unless the  
34 incident has first been reported to law enforcement or a government agency that is  
35 responsible for child welfare and notifying the parent would impede the  
36 investigation.

37           B. An employee of the State, any of its political subdivisions, including, but not limited  
38 to, any school board, school district or school administrative unit, or any other  
39 governmental entity that encourages or coerces, or attempts to encourage or coerce, a  
40 minor child to withhold information from the minor child's parent who is not suspected  
41 of a criminal offense against the minor child, as long as sharing the information would

1 not impede an investigation of a criminal offense against the minor child, may be  
2 subject to disciplinary action.

3 A parent of a minor child in this State has rights that are more comprehensive than those  
4 listed in this section. This section may not be construed to prescribe all rights of a parent  
5 of a minor child in this State.

6 **4. Parental rights in education.** The following provisions govern parental rights in  
7 education.

8 A. Each school board, school district or school administrative unit shall, in  
9 consultation with parents, teachers and administrators, develop and publicly adopt a  
10 policy to promote parental involvement in the public school system. This policy must  
11 include:

12 (1) A plan for parental participation in schools to improve parent and teacher  
13 cooperation in such areas as homework, school attendance and discipline;

14 (2) A procedure for a parent to learn about the parent's minor child's course of  
15 study, including the source of any supplemental education materials;

16 (3) Procedures for a parent to learn about the nature and purpose of clubs and  
17 activities offered at the parent's minor child's school, including those that are  
18 extracurricular or part of the school curriculum;

19 (4) Procedures for a parent to learn about gifted or special education programs  
20 offered in the district;

21 (5) Procedures for a parent to learn about parental rights and responsibilities under  
22 general law, including all of the following:

23 (a) The parent's right to object to instructional materials and other materials  
24 used in the classroom;

25 (b) The parent's right to exercise the parent's option to obtain an exception for  
26 the parent's minor child to a particular health or sex education instruction;

27 (c) The parent's right to exempt the parent's minor child from immunizations;

28 (d) The parent's right to review statewide, standardized assessment results;

29 (e) The parent's right to inspect school district instructional materials;

30 (f) The parent's right to access information relating to the school district's  
31 policies for promotion or retention, including high school graduation  
32 requirements;

33 (g) The parent's right to receive a school report card and be informed of the  
34 parent's minor child's attendance requirements and compliance with such  
35 requirements;

36 (h) The parent's right to access information relating to the state standards,  
37 report card requirements, attendance requirements and instructional materials  
38 requirements;

39 (i) The parent's right to participate in parent-teacher associations and parent-  
40 teacher organizations that are sanctioned by a school board or a government  
41 agency that is responsible for education; and

1                   (j) The right of a parent to opt out of any district-level data collection relating  
2                   to the parent's minor child not required by law;

3                   (6) The right to be notified promptly when any school board, school district, school  
4                   administrative unit, school administrator or other school employee initiates,  
5                   terminates or changes:

6                   (a) The parent's minor child's course of study or registration in classes, athletic  
7                   teams, clubs or other extracurricular activities;

8                   (b) Any discipline imposed by school authorities on the parent's minor child;

9                   (c) Services recommended or provided to the parent's minor child pursuant to  
10                   an individualized education plan or federal law that protects a person with a  
11                   disability from discrimination based on that person's disability;

12                   (d) Provision of any state or federal medical services;

13                   (e) Enrollment in any federal services for students from low-income families;

14                   (f) Off-campus activities, including field trips or off-campus privileges;

15                   (g) Medical treatment, including provision of medication, psychological or  
16                   counseling services; or

17                   (h) Directory information; and

18                   (7) The right to be notified promptly when any school board, school district, school  
19                   administrative unit, school administrator or other school employee initiates,  
20                   investigates or finds the need for any action by school authorities relating to the  
21                   parent's minor child pursuant to school policies governing student conduct,  
22                   truancy, dress code violations, sexual harassment, bullying, hazing, behavior  
23                   management and intervention, substance use, suicide prevention, gender  
24                   expression or identity, disability accommodation and special meal prescription.

25                   B. A parent may request in writing from the superintendent of a school district or  
26                   school administrative unit the information required under this subsection. Within 10  
27                   business days of the request, the superintendent shall provide the information to the  
28                   parent. If the superintendent denies a parent's request for information or does not  
29                   respond to the parent's request within 10 business days, the parent may appeal the  
30                   denial to the school board. The school board shall place a parent's appeal on the agenda  
31                   for its next public meeting. If it is too late for a parent's appeal to appear on the next  
32                   agenda, the appeal must be included on the agenda for the subsequent meeting. If a  
33                   parent is dissatisfied with the results of the appeal, or the appeal does not take place in  
34                   a timely fashion as required by this paragraph, the aggrieved parent may bring an action  
35                   for declaratory and injunctive relief.

36                   **5. Exceptions.** This section does not:

37                   A. Authorize a parent of a minor child in this State to engage in conduct that is  
38                   unlawful or to abuse or neglect the parent's minor child in violation of general law;

39                   B. Restrict the authority of a government agency that is responsible for health and  
40                   human services; or

1           C. Prohibit a court of competent jurisdiction, a law enforcement officer or an employee  
2           of a government agency that is responsible for child welfare from acting in that entity's  
3           or person's official capacity.

4           **6. Violations.** A parent claiming a violation of any provisions of this section may  
5           bring an action for declaratory relief, injunctive relief and money damages against the State,  
6           any of its political subdivisions, including, but not limited to, any school board, school  
7           district or school administrative unit, or any other governmental entity that the parent  
8           claims has violated this section in a court having jurisdiction over the relevant individual  
9           or the State or any of its political subdivisions. If the court rules in favor of the parent, it  
10           may award reasonable attorney's fees and court costs to the parent.

11           **Constitutional referendum procedure; form of question; effective date.**

12           **Resolved:** That the municipal officers of this State shall notify the inhabitants of their  
13           respective cities, towns and plantations to meet, in the manner prescribed by law for holding  
14           a statewide election, at a statewide election held in the month of November following the  
15           passage of this resolution, to vote upon the ratification of the amendment proposed in this  
16           resolution by voting upon the following question:

17                         "Do you favor amending the Constitution of Maine to describe parental  
18                         rights that are reserved to the parent of a minor child, limit the infringement  
19                         of these rights by the State or a political subdivision of the State and require  
20                         a school board to publicly adopt a policy to promote parental involvement  
21                         in the public school system?"

22           The legal voters of each city, town and plantation shall vote by ballot on this question  
23           and designate their choice by a cross or check mark placed within the corresponding square  
24           below the word "Yes" or "No." The ballots must be received, sorted, counted and declared  
25           in open ward, town and plantation meetings and returns made to the Secretary of State in  
26           the same manner as votes for members of the Legislature. The Governor shall review the  
27           returns. If it appears that a majority of the legal votes are cast in favor of the amendment,  
28           the Governor shall proclaim that fact without delay and the amendment becomes part of  
29           the Constitution of Maine on the date of the proclamation.

30           **Secretary of State shall prepare ballots. Resolved:** That the Secretary of State  
31           shall prepare and furnish to each city, town and plantation all ballots, returns and copies of  
32           this resolution necessary to carry out the purposes of this referendum.

33   **SUMMARY**

34           This resolution proposes to amend the Constitution of Maine to provide that the State,  
35           any of its political subdivisions, including, but not limited to, a school board, school district  
36           or school administrative unit, or any other governmental entity may not infringe on the  
37           fundamental rights of a parent to direct the upbringing and education of that parent's minor  
38           child without demonstrating that such action is reasonable and necessary to achieve a  
39           compelling state interest and that each action is narrowly tailored and cannot be achieved  
40           by less restrictive means. It describes parental rights that are reserved to the parent of a  
41           minor child without obstruction or interference from the State, any of its political  
42           subdivisions, including, but not limited to, a school board, school district or school  
43           administrative unit, or any other governmental entity. It requires a school board, school  
44           district or school administrative unit, in consultation with parents, teachers and

1 administrators, to develop and publicly adopt a policy to promote parental involvement in  
2 the public school system. A parent claiming a violation of these provisions may bring an  
3 action for declaratory relief, injunctive relief and money damages against the State, any of  
4 its political subdivisions, including, but not limited to, any school board, school district or  
5 school administrative unit, or any other governmental entity that the parent claims has  
6 violated these provisions.