

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 1288

INTRODUCER: Senator Grall

SUBJECT: Parental Rights

DATE: March 31, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Pre-meeting
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1288 expands the rights of a parent of a minor child under the statutory Parent’s Bill of Rights. These expansions are made by deleting existing exceptions from parental consent requirements for health care services; requiring parental review and consent before surveys and questionnaires may be given to a parent’s child or the results distributed; and requiring parental consent before using a biofeedback device on a minor.

The bill deletes exceptions to parental rights that may allow a person other than a parent to make health care decisions for a child, potentially restrict a parent from accessing and reviewing a child’s medical records, or allow a person other than a parent to consent to collecting a child’s DNA. The bill deletes another exception that allows a health care practitioner to provide health care services or prescribe medicinal drugs to a minor without parental consent if otherwise authorized by law. However, the bill preserves the authority of a health care provider under existing law to perform an emergency medical procedure on a minor in a health care facility without parental consent.

A new right granted to a parent by the bill is the right to review and consent to any survey or questionnaire before it may be given to his or her minor child. Similarly, the bill recognizes the parent’s right to grant permission for the responses to be shared once the parent is notified of the recipient, purpose, or specific information to be shared.

Finally, the bill classifies the use of a biofeedback device as a health care service, requiring express written parental consent before use on a minor. It also mandates that all biofeedback results be provided to a parent and maintained as a confidential medical record.

The bill takes effect July 1, 2025.

II. Present Situation:

Parental Rights in Florida

Florida law includes a Parent's Bill of Rights in chapter 1014, F.S., that protects a broad set of parental rights, ensuring that parents retain authority over education, healthcare, and other key decisions affecting their children.¹

Parents have the right to direct the education and care of their minor child.² Parents may:

- Choose the type of schooling for their child, including public, private, religious, or home education programs.³
- Access and review all school records related to their minor child.⁴
- Direct the moral or religious upbringing of their child.⁵

Schools must promptly notify parents if a school employee suspects a criminal offense has been committed against their child, unless notification would interfere with a law enforcement or DCF investigation.⁶

Parents have the right to make health care decisions for their minor children, including access to medical records and control over medical services and personal health data.⁷ Except where otherwise authorized by law, health care practitioners must obtain parental consent before providing medical services to a minor.⁸

Parents also retain the right to:

- Access and review all medical records, unless the parent is under investigation for a crime against the child and law enforcement has requested records not be released.⁹
- Provide written consent before any biometric scan or DNA sample is taken, stored, or shared.¹⁰
- Examine and provide consent before a school district may administer a student well-being questionnaire or health screening form to a student in kindergarten through grade 3.¹¹

Additionally, written parental consent is required before:

- A video or voice recording of a minor child is created by a government entity, except for purposes such as classroom instruction, security monitoring, or forensic investigations.¹²

¹ Section 1014.04(1), F.S.

² Section 1014.04(1)(a), F.S.

³ Section 1014.04(1)(c), F.S.

⁴ Section 1014.04(1)(d), F.S.

⁵ Section 1014.04(1)(b), F.S.

⁶ Section 1014.04(1)(j), F.S.

⁷ Section 1014.04(1)(e)-(f), F.S.

⁸ Section 1014.06(1), F.S.

⁹ Section 1014.04(1)(f), F.S.

¹⁰ Section 1014.04(1)(g)-(h), F.S.

¹¹ Section 1001.42(8)(c)6., F.S.

¹² Section 1014.04(1)(i), F.S.

- The state or any entity collects, stores, or shares a child’s DNA or blood sample, unless required by general law or a court order.¹³

These provisions help ensure that parents retain control over their child’s health care and personal data, while allowing limited exceptions for security or legal purposes.

Exceptions to Parental Consent

Under current law, minors may independently consent to certain health care services without parental approval. These exceptions include:

- Treatment for Sexually Transmissible Diseases (STDs) – A minor may consent to examination and treatment for STDs without parental involvement.¹⁴
- Emergency Medical Treatment – A minor may receive emergency medical care if parental consent is unavailable.¹⁵
- Mental Health Services – A minor aged 13 or older may consent to diagnostic and evaluative mental health services. However, parental consent is required for therapeutic services beyond two visits within a one-week period.¹⁶
- Blood Donation – A minor who is at least 17 years old may donate blood, provided there is no written objection from the parent or guardian.¹⁷
- Pregnancy-Related Care – An unwed, pregnant minor may consent to medical or surgical care related to her pregnancy. However, this does not include medical care unrelated to pregnancy.¹⁸
- Substance Abuse Treatment – A minor may consent to substance abuse treatment without parental approval.¹⁹
- Substitute Consent – If a parent or legal guardian is unavailable and cannot be contacted after reasonable attempts, certain relatives—including stepparents, grandparents, adult siblings, or adult aunts and uncles—may provide consent for the minor’s medical treatment.²⁰

In addition to these statutory exceptions, Florida law also restricts a parent’s authority under certain legal circumstances.

When a Parent is Prohibited by Law from Making Health Care Decisions

In certain circumstances, a parent may be legally prohibited from making health care decisions for their minor child, including:

- Termination or Restriction of Parental Rights – A parent loses medical decision-making authority if a court terminates their rights due to abuse, neglect, or abandonment. In such cases, a legal guardian, foster parent, or the Department of Children and Families (DCF) assumes this role.²¹

¹³ Section 1014.04(1)(h), F.S.

¹⁴ Section 384.30, F.S.

¹⁵ Section 743.064, F.S.

¹⁶ Section 394.4784, F.S.

¹⁷ Section 743.06, F.S.

¹⁸ Section 743.065, F.S.

¹⁹ Section 397.601, F.S.

²⁰ Section 743.0645, F.S.

²¹ Section 39.806, F.S.

- Court Orders for Abuse, Neglect, or Domestic Violence – A court may issue a protective order restricting a parent’s ability to make medical decisions.²²
- Incapacity or Unfitness of the Parent – A parent deemed legally incapacitated, such as due to severe mental illness or substance abuse, may lose decision-making authority, which transfers to a court-appointed guardian.²³
- Court-Ordered Medical Treatment – A court may override parental consent if a parent refuses life-saving or medically necessary treatment for their child.²⁴

These legal provisions ensure that minors receive necessary medical treatment when a parent is legally prohibited from providing consent.

Health Care Providers and Practitioners

Health Care Providers

The term “provider” under Florida law refers to any facility, agency, or service that is regulated by the Agency for Health Care Administration (AHCA) and requires licensure to provide services.²⁵ Licensed providers include, but are not limited to, hospitals, nursing homes, home medical equipment providers, and health care clinics.²⁶ Providers that fail to obtain proper licensure may face administrative penalties, moratoriums on accepting new clients, or revocation of their license.²⁷

Health Care Practitioners

Florida law defines a health care practitioner as any person licensed under a broad range of health-related professional regulations. Section 456.001(4), F.S., establishes this definition, covering practitioners licensed under statutes regulating physicians, nurses, pharmacists, mental health professionals, and other medical providers.²⁸

Health care practitioners include, but are not limited to:

- Medical doctors and osteopathic physicians (Chapters 458 and 459, F.S.).
- Chiropractic physicians and podiatrists (Chapters 460 and 461, F.S.).
- Optometrists and pharmacists (Chapters 463 and 465, F.S.).
- Nurses, including advanced practice registered nurses (Chapter 464, F.S.).
- Dentists and midwives (Chapters 466 and 467, F.S.).
- Physical therapists, occupational therapists, and speech-language pathologists (Chapters 468 and 486, F.S.).
- Psychologists, clinical social workers, marriage and family therapists, and mental health counselors (Chapters 490 and 491, F.S.).

²² Section 741.30, F.S.

²³ Section 744.3215, F.S.

²⁴ Section 39.407(2), F.S.

²⁵ Section 408.803(12), F.S.

²⁶ Section 408.802, F.S.

²⁷ Section 408.803(11), F.S.

²⁸ Section 456.001(4), F.S.

Enforcement & Penalties for Violating Parental Consent Laws

Disciplinary Actions for Violations of Parental Consent Requirements

Florida law subjects health care practitioners to disciplinary action for violations of professional standards or statutory requirements.²⁹ Failure to comply with parental consent requirements is a disciplinary violation, and practitioners may face penalties for providing services to a minor without obtaining required parental consent.³⁰

Penalties for Violating Parental Consent Requirements

If a licensed health care provider is found in violation of the parental consent requirements the provider may be subject to one or more of the following penalties:³¹

- Suspension or permanent revocation of a license.
- Administrative fines up to \$10,000 per violation.
- Practice restrictions, including limitations on work settings or the type of services the practitioner may provide.
- Probationary conditions, such as mandated supervision, continuing education, or corrective actions.
- Issuance of a reprimand or letter of concern.
- Requirement to refund fees billed to a patient or third-party payer¹.

Enforcement and Legal Actions

Florida law establishes enforcement mechanisms to ensure compliance with health care regulations. These include:

- Assessment of investigative and prosecution costs against the practitioner if disciplinary action is taken.³²
- An injunction or writ of mandamus to prohibit continued violations of the regulations.³³
- Permanent revocation of a license for severe violations, with limited options for reapplication.³⁴

Additionally, AHCA is authorized to penalize providers that fail to comply with parental consent requirements, up to \$500 per offense.³⁵

Biofeedback in Educational and Clinical Settings

Biofeedback is a technique that enables individuals to gain control over physiological processes by providing real-time feedback on bodily functions such as heart rate, muscle tension, and brainwave activity.³⁶

²⁹ Section 456.072(1), F.S.

³⁰ Section 456.072(1)(rr), F.S.

³¹ Section 456.072(2), F.S.

³² Section 456.072(4), F.S.

³³ Section 456.072(5), F.S.

³⁴ Section 456.072(6), F.S.

³⁵ Section 408.813(3), F.S.

³⁶ Mayo Clinic, *Biofeedback*, available at <https://www.mayoclinic.org/tests-procedures/biofeedback/about/pac-20384664> (last visited March 28, 2025).

Biofeedback Applications

In educational settings, biofeedback has been explored as a tool to enhance student performance, manage stress, and address behavioral and learning challenges.³⁷ Studies have investigated its effectiveness in treating childhood behavioral and learning disorders, including anxiety and attention-related conditions.³⁸

Some studies suggest that biofeedback can be comparable to cognitive-behavioral therapy (CBT) for anxiety-related disorders, with no significant differences in treatment outcomes.³⁹ Other studies indicate that biofeedback, when combined with behavior modification training, has shown improvements in attention regulation and behavioral outcomes for children with ADHD.⁴⁰

Biofeedback devices are also marketed for non-clinical educational applications. Some products, such as wearable biofeedback tools and neurofeedback headsets, claim to help students improve focus and emotional regulation.⁴¹ Educational programs have incorporated biofeedback training in stress management programs and learning interventions.⁴²

Regulatory Landscape in Florida

Florida law regulates certain biofeedback applications under the practice of psychology and the practice of school psychology, as defined in the Psychological Services Act.⁴³ The law includes biofeedback as one of the scientific and applied psychological principles, methods, and procedures used for modifying human behavior and treating mental, nervous, psychological, and emotional disorders.⁴⁴ The use of biofeedback for psychological purposes is restricted to psychologists appropriately trained in its use.⁴⁵

Additionally, school psychologists are authorized to provide psychoeducational, developmental, and behavioral interventions in school settings.⁴⁶ The practice of school psychology includes

³⁷ ResearchGate, *Reducing Anxiety and Improving Academic Performance Through a Biofeedback Relaxation Training Program*, available at https://www.researchgate.net/publication/317660383_Reducing_Anxiety_and_Improving_Academic_Performance_Through_a_Biofeedback_Relaxation_Training_Program (last visited March 28, 2025).

³⁸ ResearchGate, *The Use of Biofeedback on Students: A Systematic Review*, available at https://www.researchgate.net/publication/355655679_The_Use_of_Biofeedback_on_Students_a_Systematic_Review (last visited March 28, 2025).

³⁹ NeuroRegulation, *Neurofeedback Training and Cognitive Behavior Therapy for Treatment of Generalized Anxiety Disorder in Children and Adolescents: A Comparative Study*, available at <https://www.neuroregulation.org/article/view/22435> (last visited March 28, 2025).

⁴⁰ Frontiers in Psychiatry, *Efficacy of behavior modification training combined with electroencephalographic biofeedback therapy for attention deficit hyperactivity disorder in children: a randomized controlled trial*, <https://www.frontiersin.org/journals/child-and-adolescent-psychiatry/articles/10.3389/frcha.2023.1235310/full> (last visited March 28, 2025).

⁴¹ Biofeedback & Neurofeedback Therapy, *Biofeedback for Academic Success*, <https://biofeedback-neurofeedback-therapy.com/biofeedback-for-academic-success/> (last visited March 28, 2025).

⁴² Biofeedback & Neurofeedback Therapy, *Biofeedback for Academic Success*, <https://biofeedback-neurofeedback-therapy.com/biofeedback-for-academic-success/> (last visited March 28, 2025).

⁴³ Sections 490.001 and 490.003, F.S.

⁴⁴ Section 490.003(4), F.S.

⁴⁵ Section 490.003(4)(b), F.S.

⁴⁶ Section 490.003(5), F.S.

counseling, behavior techniques, environmental management, and group processes—services that may overlap with certain biofeedback applications.⁴⁷

Separately, neurofeedback, a subset of biofeedback that specifically targets brainwave activity, is regulated under the Board of Occupational Therapy Practice.⁴⁸ Practitioners using neurofeedback for clinical purposes must complete at least 16 hours of didactic instruction and five supervised treatments in a clinical setting.⁴⁹

However, biofeedback devices marketed for educational or non-clinical applications are not specifically addressed under Florida law. While some biofeedback tools are designed for licensed professionals, others are sold directly to consumers, including educators and students.⁵⁰

III. Effect of Proposed Changes:

SB 1288 expands parental consent requirements for health care services and requires parental consent before a minor may be surveyed or before a biofeedback device may be used on a minor.

Parental Rights

Health Care

The bill amends s. 1014.04, F.S., to *delete exceptions* to the parental right to:

- Make health care decisions for his or her minor child.
- Access and review all medical records of his or her minor child; however, the bill preserves the authority of a law enforcement agency or official to prevent the release of a child's medical records to a parent who is the subject of an investigation of a crime committed against the minor child.
- Consent in writing before any record of his or her minor child's blood or deoxyribonucleic acid (DNA) is created, stored, or shared, except as authorized pursuant to a court order.

The bill amends s. 1014.06, F.S., to remove an exception to a parent's exclusive right to make health care decisions for a child which allowed certain health care services to be provided to a minor without parental consent if authorized by law. As a result, the bill prohibits a health care practitioner, or an individual employed by such a practitioner, from providing, soliciting, or arranging to provide health care services or prescribing medicinal drugs to a minor child without first obtaining written parental consent, with no exceptions.

The bill also deletes an exception from parental consent requirements which allow a medical procedure to be performed on a minor child in a health care facility without parental consent if

⁴⁷ Section 490.003(5), F.S.

⁴⁸ Florida Board of Occupational Therapy, *Regulations on Neurofeedback Devices*, <https://floridasoccupationaltherapy.gov/prescription-devices-modalities-certification-faqs/> (last visited March 28, 2025).

⁴⁹ Rule 64B11-4.001(3), Fla. Adm. Code.

⁵⁰ Mayo Clinic, *Biofeedback: What is it and how does it work?*, <https://www.mayoclinic.org/tests-procedures/biofeedback/about/pac-20384664> (last visited March 28, 2025); MindBody Devices, *Biofeedback Devices*, <https://mindbodydevices.com/biofeedback-devices/> (last visited March 28, 2025); Biofeedback & Neurofeedback Therapy, *Biofeedback for Academic Success*, <https://biofeedback-neurofeedback-therapy.com/biofeedback-for-academic-success/> (last visited March 28, 2025).

otherwise authorized by law. The bill limits the remaining exceptions to parental rights to consent to a child's health care to cases of emergency medical care or medical care authorized by a court order.

Surveys or Questionnaires

The bill establishes a new parental right to:

- Review and consent to any survey or questionnaire given to his or her minor child.
- Approve the sharing or distribution of survey or questionnaire responses or results, after receiving notice of the recipient, purpose, and specific information to be shared.

Regulation of Biofeedback Devices

The bill defines the use of a biofeedback device as a health care service for the purpose of parental consent requirements. The bill defines "biofeedback device" as an instrument or sensor used to measure bodily functions, such as heart rate variability, brain waves, or breathing rate, for the purpose of improving performance.

The bill prohibits the use of a biofeedback device on a minor child without first obtaining express written permission from the minor child's parent or guardian. The bill requires that if a parent or guardian consents to the use of a biofeedback device, all results must be provided to the parent or guardian and must otherwise be maintained as a confidential medical record.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Schools may expend more resources requesting parents to review and consent to surveys before the surveys may be administered. Schools might also expend more time requesting permission from a parent to share the results of surveys and questionnaires.

VI. Technical Deficiencies:

The Legislature may wish to amend the bill to resolve the apparent conflict between a parent's almost unqualified rights to make health care decisions for his or her minor child as stated in the bill and the statutes that expressly state that parental consent is not required.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1014.04 and 1014.06.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.