

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 Rules

BILL: CS/CS/SB 1288

INTRODUCER: Rules Committee; Judiciary Committee and Senator Grall

SUBJECT: Parental Rights

DATE: April 22, 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>	Fav/CS
3.	<u>Brick</u>	<u>Yeatman</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1288 expands parental consent requirements for health care services provided to minors and replaces broad statutory exceptions with specifically enumerated ones. The bill also establishes new parental rights relating to school-based questionnaires and the use of biofeedback devices outside of clinical settings.

The bill requires school districts to notify parents before administering any student well-being or mental health questionnaire and allows parents to opt their child out of participation. These requirements apply to all students in kindergarten through grade 12 and replace the current requirement for affirmative parental permission for students in kindergarten through grade 3.

The bill revises parental rights related to health care decision-making, medical record access, and the creation or sharing of DNA and blood records. It removes broad exceptions based on general law and replaces them with specifically enumerated exceptions, including those related to emergency medical care, court orders, and provisions under the Baker and Marchman Acts. The bill also limits when DNA and blood samples may be collected from a minor without parental consent, preserving exceptions for certain criminal and juvenile justice procedures.

Finally, the bill provides that parents must consent in writing before a biofeedback device may be used on their minor child outside of a clinical setting. If the parent consents, the results must be provided to the parent and treated as confidential medical records.

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 In addition, school districts are required to obtain parental permission before administering a student well-being questionnaire or health screening form to a student in kindergarten through grade 3. The district must first provide the questionnaire or form to the parent and receive the parent's permission before proceeding with administration.⁷

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.⁸ Except where otherwise authorized by law, health care practitioners must obtain parental consent before providing medical services to a minor.⁹

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.¹⁰
- Provide written consent before any biometric scan or DNA sample is taken, stored, or shared.¹¹
- 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 3.¹²

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 1001.42(8)(c)6., F.S.

⁸ Section 1014.04(1)(e)-(f), F.S.

⁹ Section 1014.06(1), F.S.

¹⁰ Section 1014.04(1)(f), F.S.

¹¹ Section 1014.04(1)(g)-(h), F.S.

¹² Section 1001.42(8)(c)6., F.S.

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.¹³
- 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.¹⁴

Examples of exceptions to the written parental consent requirement include circumstances involving criminal or juvenile justice processing, such as DNA collection upon arrest or during a sexual offense investigation.¹⁵

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.¹⁶
- Emergency Medical Treatment – A minor may receive emergency medical care if parental consent is unavailable.¹⁷
- Emergency Behavioral Health Care – A minor may be taken into custody and receive emergency mental health or substance abuse evaluation and treatment under the Baker Act¹⁸ or Marchman Act¹⁹ without parental consent.
- 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.²⁰
- 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.²¹
- 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.²²
- Substance Abuse Treatment – A minor may consent to substance abuse treatment without parental approval.²³
- When the disability of nonage has been removed pursuant to specific statutes in chapter 743, F.S.

¹³ Section 1014.04(1)(i), F.S.

¹⁴ Section 1014.04(1)(h), F.S.

¹⁵ Sections 943.325 and 943.326, F.S.

¹⁶ Section 384.30, F.S.

¹⁷ Section 743.064, F.S.

¹⁸ Section 394.463, F.S.

¹⁹ Section 397.675, F.S.

²⁰ Section 394.4784, F.S.

²¹ Section 743.06, F.S.

²² Section 743.065, F.S.

²³ Section 397.601, F.S.

- 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.²⁴

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.²⁵
- Court Orders for Abuse, Neglect, or Domestic Violence – A court may issue a protective order restricting a parent’s ability to make medical decisions.²⁶
- 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.²⁷
- Court-Ordered Medical Treatment – A court may override parental consent if a parent refuses life-saving or medically necessary treatment for their child.²⁸

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.²⁹ Licensed providers include, but are not limited to, hospitals, nursing homes, home medical equipment providers, and health care clinics.³⁰ Providers that fail to obtain proper licensure may face administrative penalties, moratoriums on accepting new clients, or revocation of their license.³¹

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,

²⁴ Section 743.0645, F.S.

²⁵ Section 39.806, F.S.

²⁶ Section 741.30, F.S.

²⁷ Section 744.3215, F.S.

²⁸ Section 39.407(2), F.S.

²⁹ Section 408.803(12), F.S.

³⁰ Section 408.802, F.S.

³¹ Section 408.803(11), F.S.

covering practitioners licensed under statutes regulating physicians, nurses, pharmacists, mental health professionals, and other medical providers.³²

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.).

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.³³ 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.³⁴

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:³⁵

- 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.³⁶

³² Section 456.001(4), F.S.

³³ Section 456.072(1), F.S.

³⁴ Section 456.072(1)(rr), F.S.

³⁵ Section 456.072(2), F.S.

³⁶ Section 456.072(4), F.S.

- An injunction or writ of mandamus to prohibit continued violations of the regulations.³⁷
- Permanent revocation of a license for severe violations, with limited options for reapplication.³⁸

Additionally, AHCA is authorized to penalize providers that fail to comply with parental consent requirements, up to \$500 per offense.³⁹

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.⁴⁰

Biofeedback Applications

In educational settings, biofeedback has been explored as a tool to enhance student performance, manage stress, and address behavioral and learning challenges.⁴¹ Studies have investigated its effectiveness in treating childhood behavioral and learning disorders, including anxiety and attention-related conditions.⁴²

Some studies suggest that biofeedback can be comparable to cognitive-behavioral therapy (CBT) for anxiety-related disorders, with no significant differences in treatment outcomes.⁴³ Other studies indicate that biofeedback, when combined with behavior modification training, has shown improvements in attention regulation and behavioral outcomes for children with ADHD.⁴⁴

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

³⁷ Section 456.072(5), F.S.

³⁸ Section 456.072(6), F.S.

³⁹ Section 408.813(3), F.S.

⁴⁰ Mayo Clinic, *Biofeedback*, available at <https://www.mayoclinic.org/tests-procedures/biofeedback/about/pac-20384664> (last visited March 28, 2025).

⁴¹ 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).

⁴² 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).

⁴³ 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).

⁴⁴ 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).

focus and emotional regulation.⁴⁵ Educational programs have incorporated biofeedback training in stress management programs and learning interventions.⁴⁶

Regulatory Landscape in Florida – Biofeedback Applications

Florida law regulates certain biofeedback applications under the practice of psychology and the practice of school psychology, as defined in the Psychological Services Act.⁴⁷ 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.⁴⁸ The use of biofeedback for psychological purposes is restricted to psychologists appropriately trained in its use.⁴⁹

Additionally, school psychologists are authorized to provide psychoeducational, developmental, and behavioral interventions in school settings.⁵⁰ The practice of school psychology includes counseling, behavior techniques, environmental management, and group processes—services that may overlap with certain biofeedback applications.⁵¹

Separately, neurofeedback, a subset of biofeedback that specifically targets brainwave activity, is regulated under the Board of Occupational Therapy Practice.⁵² Practitioners using neurofeedback for clinical purposes must complete at least 16 hours of didactic instruction and five supervised treatments in a clinical setting.⁵³

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.⁵⁴

III. Effect of Proposed Changes:

CS/CS/SB 1288 expands parental consent requirements for health care services provided to minors and replaces broad statutory exceptions with specifically enumerated ones. The bill also establishes new parental rights relating to school-based questionnaires and the use of biofeedback devices outside of clinical settings.

⁴⁵ Biofeedback & Neurofeedback Therapy, *Biofeedback for Academic Success*, <https://biofeedback-neurofeedback-therapy.com/biofeedback-for-academic-success/> (last visited March 28, 2025).

⁴⁶ Biofeedback & Neurofeedback Therapy, *Biofeedback for Academic Success*, <https://biofeedback-neurofeedback-therapy.com/biofeedback-for-academic-success/> (last visited March 28, 2025).

⁴⁷ Sections 490.001 and 490.003, F.S.

⁴⁸ Section 490.003(4), F.S.

⁴⁹ Section 490.003(4)(b), F.S.

⁵⁰ Section 490.003(5), F.S.

⁵¹ Section 490.003(5), F.S.

⁵² Florida Board of Occupational Therapy, *Regulations on Neurofeedback Devices*, <https://floridasoccupationaltherapy.gov/prescription-devices-modalities-certification-faqs/> (last visited March 28, 2025).

⁵³ Rule 64B11-4.001(3), Fla. Adm. Code.

⁵⁴ 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).

Parental Rights

Examination and Treatment for Sexually Transmissible Diseases

The bill revises current law, s. 384.30, F.S., which permits a minor to be examined and treated for a sexually transmissible diseases without parental consent. The change made by the bill still allows a minor to be examined for the disease without parental consent but now requires parental consent for a minor to receive treatment.

Surveys or Questionnaires

The bill amends s. 1001.42(8)(c)6., F.S., to revise the requirements for administering student well-being questionnaires and health screening forms. Under current law, these requirements apply only to students in kindergarten through grade 3 and require affirmative parental permission. The bill:

- Expands the applicability of the provision to all students in kindergarten through grade 12;
- Broadens the scope to include questionnaires or screening forms addressing mental health;
- Requires school districts to provide the questionnaire or form to the parent either electronically or in paper form;
- Requires the notice to include the date or time period when the questionnaire or form will be administered; and
- Authorizes a parent to exempt the student from participation by submitting an opt-out request, in lieu of affirmative parental permission.

Regulation of Biofeedback Devices

The bill creates s. 1014.04(1)(k), F.S., to establish a new parental right relating to the use of biofeedback devices on minor children. The bill provides that a parent has the right to consent in writing before such a device may be used on their child. For purposes of this provision, a “biofeedback device” is defined as an instrument or sensor used to measure bodily functions – such as heart rate variability, brain waves, or breathing rate – outside of a health care facility or provider’s office, for the purpose of improving performance. If the parent consents to the use of the device, all results must be provided to the parent and maintained as confidential medical records.

Parental Consent for Health Care Services

Health Care Decisions

The bill amends s. 1014.04, F.S., to *revise exceptions* for certain parental rights. A parent retains the right to make health care decisions for his or her minor child *unless*:

- The parent is the subject of an investigation of a crime committed against the minor child;
- The Department of Children and Families has maintained the child in an out of home placement and the department has the child examined for injury, illness, and communicable diseases and to determine the need for immunization;

- The child is authorized by law to make specific healthcare decisions for himself or herself as provided in ch. 743, F.S, which describes when the “disability of nonage” is removed and the child is authorized to act on his or her behalf;⁵⁵
- A parent cannot be located and another person is authorized in statute to make health care decisions as provided in s. 743.0645, F.S.;⁵⁶
- Circumstances exist which satisfy the requirements of law for a parent’s implied consent to medical care and treatment of the child as provided in s. 383.50, F.S., dealing with an infant who is surrendered to a hospital, emergency medical services station, or a fire station; or
- A court order provides otherwise.

Health Care Records

The bill expands the scope of parental rights by removing certain exceptions to general law. As expanded, a parent:

- May 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. The broader exception “unless prohibited by law” is deleted.
- Must consent in writing before any record of his or her minor child’s blood or deoxyribonucleic acid (DNA) is created, stored, or shared, except when required by statute under s. 943.325 or s. 943.326, F.S., or as authorized pursuant to a court order. The broader exception “as required by general law” is deleted.

Restriction on a Practitioner

The bill amends s. 1014.06(1), F.S., to prohibit a health care practitioner, or an individual employed by 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. The bill replaces the current exception “as authorized by law” with specifically enumerated exceptions for emergency medical care, emergency behavioral health care under the Baker or Marchman Acts, or when authorized by a court order.

Restriction on a Facility

The bill amends s. 1014.06(2), F.S., to prohibit health care facilities from allowing a medical procedure to be performed on a minor child without written parental consent, unless the procedure is necessary for emergency medical care or is authorized by court order.

⁵⁵ The statutes cited in the bill are for the removal of the disability of nonage for: s. 743.01, F.S., a married minor; s. 743.015, F.S., a minor when determined by a circuit court that removal of nonage is in the minor’s best interest; s. 743.06, F.S., making a blood donation for a minor who is at least 17 years old; s. 743.065, F.S., an unwed pregnant minor to consent to medical or surgical care relating to her pregnancy; s. 743.066, F.S., a minor adjudicated as an adult and in the custody or under the supervision of the Department of Corrections as to health care services, except for abortion and sterilization; and s.743.067, F.S., a certified unaccompanied homeless youth who is at least 16 years old and not in the physical custody of a parent or guardian.

⁵⁶ Section 743.0645, F.S., provides that consent may be granted by the following people after a reasonable attempt to locate someone who has the power to consent has failed. In order of priority those people are: a health care surrogate, the stepparent, the grandparent of the minor, an adult brother or sister of the minor, and an adult aunt or uncle of the minor.

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:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 384.30, 1001.42, 1014.04, and 1014.06.

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

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

CS/CS by Rules on April 21, 2025:

The committee substitute modifies or replaces several provisions relating to parental consent, health care decision-making, and school-based questionnaires addressed in the bill. Specifically, the amendment:

- Removes the provision added in s. 1014.04(1)(k), F.S., which created a new parental right to review and consent to student surveys or questionnaires. In its place, the amendment revises s. 1001.42(8)(c)6., F.S., to:
 - Apply to all students in kindergarten through grade 12 (previously limited to grades K–3);
 - Expand the scope to include questionnaires or screening forms addressing mental health;
 - Require school districts to provide notice to the parent either electronically or in paper form, including the date or time period when the questionnaire will be administered;
 - Authorize parental opt-out in place of affirmative parental permission.
- Clarifies that the parental right to make health care decisions does not apply when a court order provides otherwise. This supplements the existing exceptions for emergencies, investigations, and consent by another authorized individual.
- Adds to the bill exceptions for blood and DNA collection authorized under criminal and juvenile justice provisions in ss. 943.325 and 943.326, F.S.
- Adds to the bill an exception to the requirement for written parental consent before a health care practitioner may provide services to a minor. The new exception applies when services are provided under emergency behavioral health provisions of the Baker Act or Marchman Act (ss. 394.463(1) and 397.675, F.S.). This exception is added alongside the existing exceptions for emergency medical care, court-ordered services, and consent provided by another authorized individual.
- Replaces the provision in s. 1014.06, F.S., that defined the use of a biofeedback device as a health care service with a new parental right in s. 1014.04(1)(k), F.S., which applies only to non-clinical use outside a health care facility or provider's office.

CS by Judiciary on April 1, 2025:

The committee substitute differs from the underlying bill by:

- Requiring a parent's consent to a minor child's treatment for sexually transmissible diseases; and
- Listing specific instances in which a person, other than a parent, is authorized to make health care decisions for a minor child.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
