WEST VIRGINIA CODE CHAPTER 49 ARTICLE 12

WV Legislature

§49-12-1. Short title.

This article shall be known and may be cited as the "Parents’ Bill of Rights".

WV Legislature

§49-12-2. Legislative findings and definition.

(a) The Legislature finds that it is a fundamental right of parents to direct the upbringing, education, care, and medical care of their minor children. The Legislature further finds that important information relating to a minor child should not be withheld, either inadvertently or purposefully, from his or her parent, including information relating to the minor child's health, well-being, and education, while the minor child is in the custody of the school district.

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

WV Legislature

§49-12-3. Infringement of parental rights.

The state, any of its political subdivisions, any other governmental entity, or any other state institution may not infringe on the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of his or her minor child without demonstrating that such action is reasonable and necessary to achieve a compelling state interest and that such action is narrowly tailored and is not otherwise served by a less restrictive means.

WV Legislature

§49-12-4. Parental rights.

(a) All parental rights are reserved to the parent of a minor child in this state without obstruction or interference from the state, any of its political subdivisions, any other governmental entity, or any other state institution, including, but not limited to, all of the following rights of a parent of a minor child in this state:
(1) The right to direct the education and care of his or her minor child.

(2) The right to direct the upbringing and the moral or religious training of his or her minor child.

(3) The right to apply to enroll his or her minor child in a public school or, as an alternative to public education, a private school, including a religious school, a home education program, or other available options, as authorized by law.

(4) The right to access and review all school records relating to his or her minor child.

(5) The right to make health care decisions for his or her minor child, unless otherwise prohibited by law.

(b) The right to parental rights guaranteed by this article shall not be denied or abridged on account of disability.

(c) A parent may raise this article as a defense before any court or administrative tribunal. In addition, any person aggrieved by the provisions of this article may bring an action for injunctive relief against a person who engages in conduct that constitutes a violation of this article in the circuit court of any county in which any part of the conduct occurs. The circuit court may grant any appropriate injunctive relief to prevent or abate the conduct, including a temporary restraining order, preliminary injunction, or permanent injunction.

WV Legislature

§49-12-5. Applicability; limitations.

(a) This article applies to state and local laws, rules, or ordinances, and the implementation of that law, rule, or ordinance, whether statutory or otherwise. Statutory law adopted after the date of the enactment of this article is subject to this article unless such law explicitly excludes such application by reference to this article.

(b) This article does not:

(1) Authorize a parent of a minor child in this state to engage in conduct that is unlawful or to abuse or neglect his or her minor child in violation of general law.

(2) Condone, authorize, approve, or apply to a parental action or decision that would end life.

(3) Prohibit a court of competent jurisdiction, law enforcement officer, or employees of a government agency that is responsible for child welfare from acting in his or her official capacity within the reasonable and prudent scope of his or her authority; or

(4) Prohibit a court of competent jurisdiction from issuing an order that is otherwise permitted by law.

WV Legislature