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Senate Health & Welfare

H.817 “An act relating to mental health literacy and peer-to-peer supports in schools”

H.817 requires the inclusion of provisions that require parental consent and access to mental health literacy curriculum and content of adult led- and peer-to-peer mental health programs to be in compliance with federal law.

Failure to obtain prior written consent from parents for their children to participate in mental health programs in schools will open Vermont to legal liability under the U.S. Constitution.

- **Protection of Pupil Rights Act**

Federally funded schools must comply with the Protection of Pupil Rights Amendment (PPRA) or risk the loss of federal funds. The PPRA entitles parents to inspect “all instructional materials, including teacher’s manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation” at school. See 20 U.S.C. § 1232h(a). Related regulations require prior written consent from a parent or legal guardian before a child may be subjected to questioning about political affiliations, **mental health, psychological challenges**, sexual behavior, sexual attitudes, and other topics. See 34 C.F.R. § 98.4.

- **Family Educational Rights and Privacy Act (FERPA)**

The Family Educational Rights and Privacy Act (FERPA) is a federal law that affords parents the right to have access to their children’s education records, the right to seek to have the records amended, and

the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student (“eligible student”). The FERPA statute is found at 20 U.S.C. § 1232g and the FERPA regulations are found at 34 CFR Part 99.

[What is FERPA? | Protecting Student Privacy](#)

- The [Family Educational Rights and Protections Act \(FERPA\)](#) requires schools to allow parents to access and review their children's education records, which includes curriculum.

- **Mirabelli v. Olson**

The SCOTUS March 2, 2026, ruling, [Mirabelli v. Olson](#), reiterates that parents, not the state, hold primary authority over the upbringing and education of their own children, including mental health.

- **Mahmoud v. Taylor**

SCOTUS decision on June 27, 2025, the Supreme Court reaffirmed that parents have a constitutional right to direct the religious upbringing of their children. *See Mahmoud v. Taylor*

https://www.supremecourt.gov/opinions/24pdf/24-297_4f14.pdf

- **Mirabelli v. Bonta**

“The Court found that California’s secret transition regime likely violates parents’ rights under both the Free Exercise Clause of the First Amendment and the Due Process Clause of the Fourteenth Amendment, holding that the state ‘cut out the primary protectors of children’s best interests: their parents.’”

<https://www.thomasmoresociety.org/news/u-s-supreme-court-delivers-historic-groundbreaking-victory-for-parental-rights-dismantles-californias-secret-gender-transition-regime>

- H.817 lacks an express parental consent or notification provision. Educators, school personnel, and students will be certified to identify, discuss, and offer support to peers on weighty subjects such as depression, suicidality, and substance use disorders, yet there is no express parental consent or notification provision for parents whose children might be identified as suffering from mental health issues.
- The latest draft of H.817 might serve the potential to circumvent established laws and practices under the Department of Children and Families for youth who are experiencing mental health distress by failing to include parents in their own children’s mental health, making school personnel and peers unauthorized proxies for parents without due process in Family Court. Many youths are often good at hiding physical or mental-emotional abuse to which they might be subjected. Bringing parents into the loop helps inform the situation, and parents should always be the first line of protection and defense of their own children. What are the legal consequences for schools, mental health-certified adults, and students when they identify a student with symptoms of mental health issues such as depression, suicidality, and/or substance abuse, and that student attempts or succeeds in their own suicide or dies from an overdose, and the certified mental health mentors or certified peers failed to share the student's condition with the parents?
- H.817 is non-clinical. Medical privacy does not apply.
“(3) A peer-to-peer program established pursuant to this subsection shall 4 be supportive and nonclinical. It shall not replace mental health services 5 provided by a mental health professional licensed, certified, or rostered 6 pursuant to title 26. 7”

Failure to obtain prior written consent from parents for their children to participate in mental health programs in schools will open Vermont to legal liability under the U.S. Constitution.

Vermont Family Alliance therefore recommends the House Committee on Health Care amend H.187 to include provisions that:

1. Require participating schools to directly notify all parents that a mental health pilot program is being implemented in the school and inform parents that they have a right to access the mental health program curriculum.
2. Require express written parental consent for their children to participate in any mental health literacy program, mental health clubs and/or adult-lead and peer-to peer groups.
3. Requirement to notify parents if their child is suspected to be showing signs of any mental health issues, including but not limited to anxiety, depression, suicidality, gender dysphoria, or substance abuse.

The above recommended amendments are in alignment with Representative Brian Cina's and witness Laurie Emerson's (NAMI Vermont) comments Committee on Health Care on February 24 to include parents in the mental health programs.

Please amend H.817 to include parental rights provisions during mark-up prior to the vote scheduled for May 6, 2026.