

South Australia

**Education and Children's Services (Parental Primacy) Amendment Bill 2024**

A BILL FOR

An Act to amend the *Education and Children's Services Act 2019* and to make a related amendment to the *Education and Early Childhood Services (Registration and Standards) Act 2011*.

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Education and Children's Services (Parental Primacy) Amendment Act 2024*.

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## Part 2—Amendment of *Education and Children's Services Act 2019*

### 2—Insertion of Part 7 Division 4A

After section 82 insert:

#### Division 4A—Education relating to ideological content and matters of parental primacy

##### Subdivision 1—Preliminary

##### 82A—Interpretation

In this Division—

*gender fluidity* means a belief there is a difference between biological sex (including people who are, by their chromosomes, male or female but are born with disorders of sexual differentiation) and human gender and that human gender is socially constructed rather than being equivalent to a person's biological sex;

*matters of parental primacy* means, in relation to the education of a student, moral and ethical standards, political and social values, and matters of personal wellbeing and identity, including gender and sexuality.

##### 82B—Principles of Division

The principles of this Division are as follows:

- (a) a person who is responsible for a student has primary responsibility for the teaching and formation of the student in matters of parental primacy;
- (b) a student's education should be consistent with the moral and ethical standards and the political and social values of the person who is responsible for the student;
- (c) the interaction between a student, their school and the person who is responsible for the student should reflect the rights that are codified in Article 18(4) of the *International Covenant on Civil and Political Rights*.

##### Subdivision 2—Gender fluidity and ideological education prohibited

##### 82C—Application of Subdivision

A prohibition set out in this Subdivision applies to the principal, officers of the teaching service and all other persons employed, engaged by or volunteering in, or in relation to, a school to which the prohibition is expressed to apply.

**82D—Gender fluidity education prohibited**

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- (1) Gender fluidity education must not form part of the curriculum determined by the Chief Executive for the purposes of this Act.
  - (2) The provision of education in a Government or non-Government school must not include education regarding gender fluidity.

**82E—Ideological education prohibited**

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- (1) The provision of education in a Government school must, in respect of matters of parental primacy, only consist of non-ideological instruction.
  - (2) For the purposes of this section, non-ideological instruction may be taken to include general teaching about matters of parental primacy as distinct from advocating or promoting dogmatic or polemical ideology.
  - (3) This section does not apply to religious or cultural activities conducted under section 82.
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**Subdivision 3—Education involving matters of parental primacy**

**82F—Notice etc of content involving matters of parental primacy**

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- (1) Before the commencement of a school year, the principal of a Government school must give notice of, and invite feedback on, content relating to matters of parental primacy that is intended to be taught to students at the school within the school year.
  - (2) A notice under subsection (1) must—
    - (a) be published on the school's website; and
    - (b) be given in writing to persons who are responsible for students enrolled at the school.
  - (3) A notice given under subsection (1) must include—
    - (a) information about the specific content that is intended to be taught; and
    - (b) the year levels to which the content is intended to be taught; and
    - (c) the dates on which the content is intended to be taught.
  - (4) Content relating to matters of parental primacy must not be taught by the principal, officers of the teaching service and all other persons employed, engaged by or volunteering in, or in relation to, a school without the requirements of this section being satisfied.
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**82G—Objections to participation in education involving matters of parental primacy**

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- (1) A person who is responsible for a student enrolled at a Government school may object to the student participating in any education at the school relating to matters of parental primacy.
- (2) A school must not allow a student to participate in any education relating to matters of parental primacy if—
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- (a) a person responsible for the student has objected under subsection (1); and
- (b) any other person responsible for the student agrees with the objection.
- (3) A student who does not participate in education relating to matters of parental primacy (whether in accordance with an objection under subsection (1) or otherwise)—
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- (a) cannot be made to suffer any detriment for not participating; and
- (b) must be offered an alternative activity during the period for which the education is conducted.
- (4) In this section—

20 *detriment* has the same meaning as in section 82.

**Subdivision 4—Review of compliance with Division**

**82H—Minister must cause review of compliance with Division**

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- (1) The Minister must, after the second, but before the third, anniversary of the commencement of this section, cause a review to be undertaken and submitted to the Minister on the extent to which schools have complied with the obligations of this Division.
- (2) A report submitted to the Minister under subsection (1) must be laid before both Houses of Parliament within 12 sitting days of its receipt.

**Schedule 1—Related amendment**

30 **Part 1—Amendment of *Education and Early Childhood Services (Registration and Standards) Act 2011***

**1—Amendment of section 29—Functions of Board**

(1) Section 29(1)—after paragraph (e) insert:

- 35 (ea) to monitor, and provide advice to the Minister about, the compliance of registered schools with Part 7 Division 4A of the *Education and Children's Services Act 2019*;

(2) Section 29—after subsection (3) insert:

(4) Advice provided to the Minister by the Board in accordance with subsection (1)(ea) may include—

- (a) an opinion that a registered school is in contravention of Part 7 Division 4A of the *Education and Children's Services Act 2019*; and
- (b) a recommendation that a particular action be taken by the Minister or the Chief Executive in relation to the registered school.

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