

FIRST FOCUS CAMPAIGN FOR CHILDREN STATEMENT FOR THE RECORD

SUBCOMMITTEE ON THE CONSTITUTION: H.J. RES. 110, AN AMENDMENT TO THE CONSTITUTION CONCERNING PARENTAL RIGHTS AND EDUCATION

JULY 18, 2012

Chairman Franks, Ranking Member Nadler, and Members of the House Subcommittee on the Constitution, thank you for the opportunity to submit this statement on the proposed constitutional amendment on parental rights.

The First Focus Campaign for Children is a bipartisan children's advocacy organization dedicated to making children and families a priority in federal policy and budget decisions. Our organization is also committed to ensuring that our nation's laws promote the well-being of our nation's children.

Amending the constitution is a serious process that should only be undertaken when there is an urgent need of serious public concern. The proposed amendment concerning parental rights is not only unnecessary to protect parental rights, which have been repeatedly upheld by the Supreme Court, but it threatens children's well-being in multiple ways. H.J. Res. 110 would be severely damaging to child welfare agencies' ability to investigate and prosecute cases of child abuse and neglect and would inhibit school districts' ability to design and update their curricula.

Child Welfare and the Parental Rights Amendment

Child abuse and neglect is a major issue in the U.S. that should be confronted with reforms that improve prevention, detection and prosecution. The proposed parental rights amendment would effectively tie the hands of child welfare agencies across the country and exacerbate an already serious problem.

In 2010, approximately 1,560 children died as a result of abuse or neglect, a number that is likely an under-estimate according to the GAO.¹ Also in 2010, there were approximately 754,000 cases of child abuse, also likely an underestimate, and in over 80 percent of these cases it was parents who were responsible for abusing, neglecting or killing their child.² Furthermore, of 27 economically advanced nations, the U.S. ranks near the bottom of every measure of child welfare, including third to last in child deaths as a result of abuse or neglect.³ Though these numbers have been improving in recent years, even one preventable death is unacceptable, and the only way to ensure that these numbers continue to improve is through increased prevention and enforcement efforts.

Currently, only about four out of ten cases where child abuse is substantiated receive any services from child welfare agencies.⁴ This means that of all the cases reported to child welfare agencies where there is evidence of abuse or neglect, 60 percent of families receive no in-home counseling or any other intervention to prevent future abuse or neglect. To bring the U.S. more in line with economically advanced nations and decrease the number of child deaths as a result of abuse and neglect, the number of substantiated cases that receive services must be raised considerably.

But if H.J. Res 110 is adopted, the number of families who receive services would drop drastically, as would the number of cases that are investigated at all. The proposed amendment would have a harmful chilling effect on child welfare agencies and on children at risk. Any investigation or intervention would have to be “of the highest order,” which is not clearly defined in the amendment, or child welfare agencies would risk litigation following any intervention or investigation that could be interpreted as infringing upon parental rights. These cases would be highly biased to rule in favor of the parents, which would discourage child welfare agencies from investigating and providing services for families.

While the proposed amendment states that parents do not have the right to end their child’s life, this does not give child welfare agencies the power they need to prevent child deaths. Abuse and neglect are damaging to children, causing them physical and mental harm during important stages of development. Furthermore, abuse or neglect often come before a child is killed, but if child welfare agencies can’t intervene when abuse or neglect is suspected they have no way of preventing child deaths at the hands of their parents. Prevention efforts should be improved to protect our children, not hindered through a parental rights amendment.

Child welfare staff are also not the only people who work with children that would suffer a chilling effect if this amendment is adopted. Teachers and pediatricians, often the only people other than a child’s parent who spend enough time with children to assess possible abuse or neglect, would also be more reluctant to report suspected abuse. The proposed amendment would subject these professionals to lawsuits if their reporting of suspected abuse is interpreted as infringing upon parental rights. As a result, reporting that is often the first line of defense for children would be reduced, further increasing the risk that children would be victims of abuse or neglect without intervention. To decrease the instances of child abuse, neglect and the deaths that result, these professionals should be encouraged to report suspected abuse to ensure that families have the services necessary to raise happy and healthy children.

The Parental Rights Amendment’s Harmful Effect on Education

In addition to exposing children to increased risk of abuse and neglect, a parental rights amendment would hinder educational efforts and put an additional, unnecessary burden on school districts. An amendment that makes parent’s choices in their children’s education a “fundamental right” would leave school districts at risk of potential litigation. Parents would be able to sue schools, school boards and school districts for teaching curricula they don’t want their kids to be exposed to, thus limiting the ability of schools to update their curricula to meet the high standards being set around the world. Schools would also risk litigation if they had comprehensive sex education classes or have a health clinic with confidentiality procedures, despite evidence that these practices can help reduce teenage pregnancy⁵ or increase the likelihood that adolescents will seek medical treatment⁶ and decrease the number of visits to the emergency room for children and youth, especially those with asthma.⁷

There would also be a risk of litigation for school counselors who speak with students without parental consent. These are trained professionals who are in schools to provide support to students when they need it, but an amendment that limits confidentiality means that counselors would be unable to perform their job effectively, leaving troubled students with severely limited options for support.

Many school districts are already suffering budget shortfalls and have decreased their teaching and support staff due to state funding cuts and expiring emergency federal funds.⁸ The risk of litigation would place a heavy financial burden that most schools and districts could not sustain. Our schools would then be left less able to teach our children, harming their chance for success in an increasingly competitive global economy.

The U.N. Convention on the Rights of the Child

While a parental rights amendment would limit children's rights, tie the hands of child welfare agencies and professionals to combat child abuse and neglect and harm our school system, ratifying the United Nations Convention on the Rights of the Child (C.R.C.) would do the opposite, providing our children the rights and protections they need to grow and thrive, while strengthening families by giving them the support they need to raise their children.

The C.R.C. was drafted over 20 years ago with input from leaders around the world, including presidents Ronald Reagan and George H.W. Bush, to ensure that all children are guaranteed basic human rights. These include the right to survival, to develop to their fullest potential, to be protected from abuse, neglect and exploitation, and the right to participate in family, cultural and social life. Most nations have realized the importance of the C.R.C. and ratified it; 193 of 195 countries in the U.N. have signed the C.R.C. The United States and Somalia, which has no functioning government, are the only two nations in the world not to ratify the C.R.C.

The nations that have ratified the C.R.C. have been using it as a basis to improve child well-being and the U.S. would benefit from doing the same. Child poverty in the U.S. is at its highest rate in 20 years, with over 16 million children living in poverty,⁹ while approximately 1.3 million students drop out of school each year¹⁰ and the U.S. has the 6th worst infant mortality rate of forty industrialized countries.¹¹ Ratification of the C.R.C. would help provide a national framework for addressing these challenges and ensuring that policies are created to improve child outcomes in America.

The American public also overwhelmingly supports the ratification of the C.R.C. In a 2009 survey, 62 percent of Americans supported ratification while only 14 percent did not. Favoring ratification was high among republicans, democrats, independents and both men and women.¹² Yet we still have not ratified the C.R.C., to the detriment of our children.

Ratifying the C.R.C. would force our leaders pay attention to the status of our children and measure their progress against that of other countries. In order to escalate our children, all our elected leaders must acknowledge this challenge, and work together to ensure our nation provides every child a chance to succeed.

Conclusion

Children in America are not faring well and the proposed parental rights amendment threatens to harm them even further. By placing excessive restrictions on child welfare agencies and schools, the amendment will weaken the current system we have in place to provide children with the safety and education they need to lead healthy lives and grow into successful adults. Instead, the nation should be focused on providing children, the most critical population for our country's future, with the support they need to succeed in hard economic times. An important step in that direction is ratification of the U.N. Convention on the Rights of the Child, which will guarantee children fundamental rights and ensure that our leaders focus on the needs of children.

¹ United States Government Accountability Office, *Child Maltreatment: Strengthening national data on child fatalities could aid in prevention*. (2011), <http://www.gao.gov/assets/330/320774.pdf>.

² U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, *Child Maltreatment 2010*. (2011). <http://www.acf.hhs.gov/programs/cb/pubs/cm10/cm10.pdf>.

³ UNICEF, "A league table of child maltreatment deaths in rich nations," *Innocenti Report Card No.5*. (2003). <http://www.unicef-irc.org/publications/pdf/repcard5e.pdf>.

⁴ U.S. Department of Health and Human Services, *Child Maltreatment 2010*.

⁵ Kohler, Pamela K., Lisa Manhart and William Lafferty, *Abstinence-Only and Comprehensive Sex Education and the Initiation of Sexual Activity and Teen Pregnancy*, Journal of Adolescent Health (2008). [http://www.jahonline.org/article/S1054-139X\(07\)00426-0/abstract](http://www.jahonline.org/article/S1054-139X(07)00426-0/abstract).

⁶ Klein, J. et al., *Access to medical care for adolescents: results from the 1997 Commonwealth Fund Survey of the Health of Adolescent Girls*, Journal of Adolescent Health (1999), <http://www.ncbi.nlm.nih.gov/pubmed/10447039>; Reddy, DM, R. Fleming and C. Swain, *Effect of mandatory parental notification on adolescent girls' use of sexual health care services*, Journal of the American Medical Association (2002), <http://www.ncbi.nlm.nih.gov/pubmed/12169074>; Sugerman, S. et al., *Family planning clinic clients: their usual health care providers, insurance status, and implications for managed care*, Journal of Adolescent Health (2000), http://www.rand.org/pubs/external_publications/EP20000048.html

⁷ Kaplan, David W., et. al., *A Comparison Study of an Elementary School-Based Health Center: Effects on health care access and use*, Archives of Pediatric and Adolescent Medicine (1999). <http://www.ncbi.nlm.nih.gov/pubmed/10086399>; Guo, J.J., et. al., *Impact of School-Based Health Centers on Children with Asthma*, Journal of Adolescent Health (2004). [http://www.jahonline.org/article/S1054-139X\(04\)00233-2/abstract](http://www.jahonline.org/article/S1054-139X(04)00233-2/abstract).

⁸ Oliff, Phil and Michael Leachman, Center on Budget and Policy Priorities, *New School Year Brings Steep Cuts in State Funding for Schools*. (2011). <http://www.cbpp.org/cms/index.cfm?fa=view&id=3569>.

⁹ United States Census Bureau, Current Population Survey. *Annual Social and Economic Supplement* (2011) http://www.census.gov/hhes/www/cpstables/032011/pov/new01_100_01.htm.

¹⁰ Alliance for Excellent Education, *High School Dropouts in America*. (2010). <http://www.all4ed.org/files/HighSchoolDropouts.pdf>.

¹¹ Organization for Economic Cooperation and Development, *OECD Family Database*. http://www.oecd.org/document/4/0,3746,en_2649_37419_37836996_1_1_1_37419,00.html

¹² First Focus and Lake Research Partners, *Convention on the Rights of the Child: Findings from a Survey of 1,000 Registered Voters*. (2009) <http://www.firstfocus.net/library/polling-and-opinion-research/poll-results-convention-rights-child>.