

Why we need the Parental Rights Amendment

Ninety years ago the Supreme Court declared that “the child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.” *Pierce v. Society of Sisters*, 268 U.S. 510 (1925). Forty years ago the Court continued this line of reasoning with the pronouncement that the “primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.” *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

Yet that debate was reopened in 2000. A Washington state law gave any person the ability to override a good parent’s decision about visitation by simply claiming that it would be “best” for children to allow the third-party to have visitation rights. When the U.S. Supreme Court reviewed the law in *Troxel v. Granville*, 530 U.S. 57 (2000):

- There were six separate opinions and none reached a five-vote majority.
- Justice Scalia held that parents have no constitutionally protected rights whatsoever.
- Only Justice Thomas clearly stated that parental rights receive the same high legal standard of protection as other fundamental rights.

Support for a high-view of parental rights was seriously undermined by this Court decision. **Today numerous lower federal courts refuse to treat parental rights as deserving of protection as a fundamental right.** It is the duty of the legislature to clear up the confusion caused by this splintered decision.

The Proposed Parental Rights Amendment

SECTION 1.

The liberty of parents to direct the upbringing, education, and care of their children is a fundamental right.

SECTION 2.

The parental right to direct education includes the right to choose, as an alternative to public education, private, religious, or home schools, and the right to make reasonable choices within public schools for one’s child.

SECTION 3.

Neither the United States nor any State shall infringe these rights without demonstrating that its governmental interest as applied to the person is of the highest order and not otherwise served.

SECTION 4.

The parental rights guaranteed by this article shall not be denied or abridged on account of disability.

SECTION 5.

This article shall not be construed to apply to a parental action or decision that would end life.



Protecting Children by Empowering Parents

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