

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE JOINT RESOLUTION NO. 26

97TH GENERAL ASSEMBLY

1357L.04P

D. ADAM CRUMBLISS, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article I of the Constitution of Missouri, and adopting one new section in lieu thereof relating to parental rights.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2014, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article I of the Constitution of the state of Missouri:

Section A. Article I, Constitution of Missouri, is amended by adding one new section, to be known as section 35, to read as follows:

Section 35. 1. That parents have a fundamental right to exercise exclusive control over the care, custody, and upbringing of their minor children, including all decisions involving the discipline, education, religious instruction, health, medical care, place of habitation, and general well-being of such minor children.

2. Parents have the right to choose to educate their children in public schools, private schools, or in-home education to prepare them for future obligations in life.

3. Neither the state nor any political subdivision, nor any agency, entity, or person acting on behalf of the state or any political subdivision, shall act to deny or impair the fundamental right of parents to direct the upbringing, education, and care of their children. However, the fundamental right of a parent to control and direct the care, custody, and upbringing of a minor child may be modified by a court of law when a parent has been found guilty of or pleads guilty to a crime of violence against a child, abuse of a

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 **child, kidnapping of a child, abandonment of a child, sexual abuse of a child, sexual**
14 **conduct or any other sexual offense against a child, criminal nonsupport, or endangering**
15 **the welfare of a child; or when a parent has been found by a court of law by clear and**
16 **convincing evidence to have committed child abuse, child neglect or medical neglect; or as**
17 **a result of adoption, child abandonment, mental incompetency or marital dissolution**
18 **proceedings, or through the voluntary consent of the parent of a child.**

19 **4. Nothing in this section shall be construed to diminish the authority of peace**
20 **officers and law enforcement officials to take necessary actions in emergency situations to**
21 **protect the life, health, and safety of minor children who have suffered serious physical**
22 **harm or are in imminent danger of such harm; or of courts of law to provide for**
23 **temporary custody of a child in emergency situations to protect the life, health, and safety**
24 **of such child; or of juvenile courts to assume jurisdiction over a minor child who has been**
25 **charged with or found guilty of or pleads guilty to offenses against the law, is engaged in**
26 **actions or associations injurious to the welfare of the child or others, or is beyond the**
27 **control of the parents; or of courts of law to issue child protection orders for a child who**
28 **has been subject to domestic violence or in imminent danger of such harm; or of state**
29 **authorities to investigate allegations of child abuse, child neglect, or medical neglect in**
30 **accordance with this section.**

31 **5. Nothing contained in this section shall be construed to confer upon a parent the**
32 **right to compel a minor child to undergo an abortion.**

33 **6. Nothing contained in this section shall be construed to empower a parent to**
34 **enroll his or her minor child in a public school outside of the area of that child's residence,**
35 **except as otherwise provided by law.**

36 **7. As used in this section, the following terms shall mean:**

37 **(1) "Child abuse", any physical injury, sexual abuse, or emotional abuse inflicted**
38 **on a child other than by accidental means by those responsible for the child's care, custody,**
39 **and control; except that discipline, including spanking, administered in a reasonable**
40 **manner, shall not be construed to be abuse;**

41 **(2) "Child neglect", failure to provide by those responsible for the care, custody,**
42 **and control of the child the necessary shelter, nutrition, clothing, or medical care, or**
43 **education in a public, private, or in-home education setting, to the degree that the child is**
44 **harmed by such neglect or at imminent risk of such harm;**

45 **(3) "Endangering the welfare of a child", any action or failure to act wherein a**
46 **parent knowingly creates a substantial risk to the life, body, or health of such parent's**
47 **child, or any action wherein a parent knowingly engages in sexual conduct with such**
48 **parent's child;**

49 **(4) "Medical neglect", the denial or deprivation of medical or surgical treatment**
50 **or intervention which is necessary to remedy or ameliorate a medical condition which is**
51 **life-threatening or would result in serious injury;**

52 **(5) "Mental incompetency", a consistent or recurring lack of mental capacity or**
53 **mental capability which prevents a parent from providing necessary care, nutrition,**
54 **clothing, habitation, health care, or education to the child of such parent;**

55 **(6) "Parent", a biological parent of a child, including the husband of a natural**
56 **mother at the time the child was conceived, or the parent of a child by adoption, or as**
57 **otherwise provided by law; except that a biological father who has been found guilty of or**
58 **pleads guilty to the forcible rape of a birth mother shall not be included in the definition**
59 **of parent.**

 Section B. Pursuant to Chapter 116, RSMo, and other applicable constitutional
2 provisions and laws of this state allowing the General Assembly to adopt ballot language for the
3 submission of a joint resolution to the voters of this state, the official ballot title of the
4 amendment proposed in section A shall be as follows:

5 "Shall the Missouri Constitution be amended to ensure:

6 That parents have a fundamental right to control and direct the care, education, and upbringing
7 of their minor children; and That courts of law and law enforcement officers may act to protect
8 the health, safety, and welfare of minor children?".

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