

HJR 99 -- PARENTAL RIGHTS

SPONSOR: Burlison

This proposed constitutional amendment, if approved by the voters, declares that every parent has a fundamental right to exercise exclusive control over all aspects of their minor children's lives without governmental interference, including but not limited to, decisions regarding their minor children's custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation. This fundamental right does not extend to any action by the parent that threatens clear, immediate, and substantial physical injury to their minor child, nor permit a parent to compel a minor child to have an abortion.

The amendment also declares that every parent has a fundamental right to require government entities to obtain the parent's explicit permission before soliciting or sharing information obtained from a minor child about the child or the child's family, unless the information is obtained during a criminal investigation.

The amendment guarantees that every parent must have the fundamental right to decide what educational settings in which to place their child.

The amendment lists several circumstances in which government interference with parental rights will be justified, including when:

- (1) Protecting a child from a clear, immediate, and substantial threat of physical injury;
- (2) A parent has been found by a court to have knowingly exposed a child to physical neglect, abandonment, reckless endangerment, or sexual or physical abuse;
- (3) A parent has been found by a court to be incapacitated or mentally incompetent;
- (4) A child has been emancipated by court order in accordance with state statutes;
- (5) A court has assumed jurisdiction over a minor child charged with or convicted of violating a criminal statute; and
- (6) A court of law has assigned parental rights to one parent or a non-biological parent as a result of mental incompetence, adoption, or marital dissolution.

Finally, the amendment permits any parent whose rights have been adversely affected to challenge the constitutionality of the infringing law, policy, or other government act and seek damages and attorney's fees.

This bill is similar to SJR 38 (2016).