

ONE HUNDRED THIRD LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 42

Introduced by Brasch, 16; Ashford, 20; Bloomfield, 17; Campbell, 25; Carlson, 38; Christensen, 44; Coash, 27; Davis, 43; Dubas, 34; Gloor, 35; Hadley, 37; Hansen, 42; Harms, 48; Janssen, 15; Johnson, 23; Karpisek, 32; Kintner, 2; Krist, 10; Larson, 40; Lautenbaugh, 18; Murante, 49; Nelson, 6; Pirsch, 4; Price, 3; Scheer, 19; Schilz, 47; Seiler, 33; Smith, 14; Sullivan, 41; Wallman, 30; Watermeier, 1; Wightman, 36.

Read first time January 23, 2013

Committee: Judiciary

WHEREAS, the right of parents to direct the upbringing and education of their children is a fundamental right protected by the Constitution of the United States; and

WHEREAS, our nation has historically relied first and foremost on parents to meet the real and constant needs of children; and

WHEREAS, the interests of children are best served when parents are free to make child-rearing decisions about education, religion, and other areas of a child's life without state interference; and

WHEREAS, the United States Supreme Court, in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), held that "(t)his primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition"; and

WHEREAS, in *Troxel v. Granville*, 530 U.S. 57 (2000), Supreme Court justices issued five concurring and dissenting opinions on the nature and enforceability of parental rights under the Constitution of the United States; and

WHEREAS, the decision in *Troxel v. Granville* has created confusion and ambiguity about the fundamental nature of parental rights in the laws and societies of the several states; and

WHEREAS, the United Nations Convention on the Rights of the Child would drastically alter the fundamental right of parents to direct the upbringing of their children; and

WHEREAS, this convention has already been acceded to by 192 nations worldwide and has already been cited by United States courts as an example of "customary international law"; and

WHEREAS, international influence is being exerted on the United States Supreme Court, as demonstrated in *Roper v. Simmons*, 543 U.S. 551 (2005), in which it was expressed that "the Court has referred to the laws of other countries and to international authorities as instructive for its interpretation" of the Constitution of the United States; and

WHEREAS, H.J. Res. 110 was introduced in the United States House of Representatives during the second session of the 112th Congress to provide for an amendment to the Constitution of the United States to prevent erosion of the enduring American tradition of treating parental rights as fundamental rights, and the legislation states:

"SECTION 1. The liberty of parents to direct the upbringing, education, and care of their children is a fundamental right.

"SECTION 2. Neither the United States nor any State shall infringe this right without demonstrating that its governmental interest, as applied to the person, is of the highest order and not otherwise served.

"SECTION 3. This article shall not be construed to apply to a parental action or decision that would end life.

"SECTION 4. No treaty may be adopted nor shall any source of international law be employed to supersede, modify, interpret, or apply to the rights guaranteed by this article."; and

WHEREAS, this amendment will add explicit text to the Constitution of the United States to forever protect the rights of parents as they are now enjoyed, without substantive change to current federal or state laws respecting these rights.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED THIRD LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Unicameral Legislature urges the Congress of the United States to pass the Parental Rights Amendment to the Constitution of the United States and submit it to the states for ratification.

2. That the Nebraska Unicameral Legislature affirms the Parental Rights Amendment to the Constitution of the United States.

3. That copies of this resolution be transmitted to the Speaker of the United States House of Representatives, to the President of the United States Senate, and to each member of Congress from Nebraska.