

MAR 03 2011

SENATE CONCURRENT RESOLUTION

URGING MEMBERS OF THE UNITED STATES CONGRESS TO PROPOSE THE
PARENTAL RIGHTS AMENDMENT TO THE STATES FOR RATIFICATION.

1 WHEREAS, the right of parents to direct the upbringing and
2 education of their children is a fundamental right protected by
3 the constitutions of the United States and the State of Hawaii;
4 and

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

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

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

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20 WHEREAS, however, the United States Supreme Court in *Troxel*
21 *v. Granville*, 530 U.S. 57 (2000), produced six different
22 opinions on the nature and enforceability of parental rights
23 under the United States Constitution; and

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25 WHEREAS, this decision has created confusion and ambiguity
26 about the fundamental nature of parental rights in the laws and
27 society of the states; and

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29 WHEREAS, Congressman Jeff Fortenberry, representing the
30 State of Nebraska has introduced in the United States House of
31 Representatives an amendment to the United States Constitution
32 to prevent erosion of the enduring American tradition of
33 treating parental rights as fundamental rights that provides:



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SECTION ONE: The liberty of parents to direct the upbringing and education of their children is a fundamental right;

SECTION TWO: Neither the United States nor any state shall infringe upon this right without demonstrating that its governmental interest as applied to the person is of the highest order and not otherwise served; and

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

WHEREAS, the proposed 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 state or federal laws respecting these rights; and

WHEREAS, section two of the proposed amendment preserves the United States Supreme Court's tradition of upholding state laws against child abuse or neglect as representing a governmental interest of the highest order; and

WHEREAS, the amendment would not impair the tradition of granting parental rights to any individual who has legal custody of children, which may include other members of the family, such as grandparents, as mentioned in *Troxel v. Granville*; and

WHEREAS, an enumeration of parental rights in the text of the federal constitution will preserve them from being infringed upon by the shifting ideologies and interpretations of the United States Supreme Court; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-sixth Legislature of the State of Hawaii, Regular Session of 2011, the House of Representatives concurring, that the Legislature expresses support for the Parental Rights Amendment to the United States Constitution as presented to the United States Congress by Congressman Jeff Fortenberry; and

1 BE IT FURTHER RESOLVED that members of the United States
2 Congress are urged to propose the Parental Rights Amendment to
3 the states for ratification; and
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5 BE IT FURTHER RESOLVED that certified copies of this
6 Concurrent Resolution be transmitted to the Majority Leader and
7 members of the United States Senate, the Speaker and members of
8 the United States House of Representatives, and to each of the
9 presiding officers of the legislative bodies of each state of
10 the United States of America.
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OFFERED BY: 



