

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 105

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE POLLOCK (123).

5114H.011

DANA RADEMAN MILLER, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to Article I of the Constitution of Missouri, by adding thereto one new section relating to parents' exclusive right to control the upbringing of their children.

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, 2020, 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 thereto one new section, to be known as Section 36, to read as follows:

Section 36. 1. 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; provided, this fundamental right shall not extend to any decision or action by a parent that threatens clear, immediate, and substantial physical injury to their minor child, nor shall it permit a parent to compel a minor child to have an abortion.

2. That every parent also has the fundamental right to require government entities to obtain the parent's explicit permission before soliciting from a minor child information

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.

10 or data about the child or the child's family members or sharing such information or data
11 solicited from a minor child with anyone other than the child's parents for purposes not
12 directly related to a criminal investigation or, if enrolled in a public school, the child's
13 knowledge of academic subjects; neither the parent nor child shall in any way be punished
14 or penalized if the parent refuses such permission.

15 **3. That every parent has the fundamental right to decide what educational setting**
16 **will best prepare their children to meet the obligations of responsible adulthood, and this**
17 **right includes, but is not limited to, a parent's choice to have their children educated in**
18 **public, private, parochial, or home schools or otherwise to provide for their children's**
19 **education in another setting; provided, nothing in this section shall require or prohibit any**
20 **state or local government to fund or subsidize education in a nonpublic school setting or,**
21 **unless otherwise required by law, require a public school to enroll or educate a child who**
22 **does not live in that public school's district.**

23 **4. That a government entity in this state shall only be justified in interfering with**
24 **the parental rights acknowledged in this section if:**

25 **(1) The interference is temporary and limited to only the degree and duration**
26 **necessary to protect a child from a clear, immediate, and substantial threat of physical**
27 **injury;**

28 **(2) A court of law has first found by clear and convincing evidence that a parent**
29 **has knowingly exposed a child to harm through physical neglect, abandonment, reckless**
30 **endangerment, or sexual or physical abuse, as each of those terms may be defined by state**
31 **statute;**

32 **(3) A court of law has first found by clear and convincing evidence that a parent**
33 **is incapacitated or mentally incompetent, as those terms may be defined by state statute;**

34 **(4) A court of law has first ruled that minor child is emancipated in accordance**
35 **with state statutes;**

36 **(5) A court of law has assumed jurisdiction over a minor child charged with**
37 **violating or found beyond a reasonable doubt to have violated a criminal statute; or**

38 **(6) A court of law has assigned parental rights to one parent or someone other than**
39 **a biological parent as a result of mental incompetence, adoption, or marital dissolution.**

40 **If, after considering evidence, a judge has first determined that a government entity has**
41 **probable cause to believe that a parent has subjected their child to criminal, sexual, or**
42 **physical abuse, neglect, or endangerment, it shall not be considered an interference with**
43 **the parental rights acknowledged in this section for the government entity to question the**
44 **parent or the child about the alleged crime, or for police to obtain a warrant to search the**
45 **parent's home for evidence of the suspected crime.**

46 **5. That any parent whose rights under this section have been adversely affected by**
47 **any type of law, policy, or other act of government authority shall be permitted to file a**
48 **lawsuit challenging the constitutionality of the law, policy, or other act of government**
49 **authority, and seek damages against the government entity responsible for the violation**
50 **of the parent's rights. In considering such a lawsuit, courts may not presume the**
51 **constitutionality of the law, policy, or other act of government authority being challenged,**
52 **may not defer to claims made by a government entity that the law, policy, or other act of**
53 **government authority is justified unless the government entity supports all such claims**
54 **with competent evidence, and shall award appropriate damages and reasonable attorney's**
55 **fees for any infringement of these constitutional rights that the government has not**
56 **justified in accordance with subsection 4 of this section.**

57 **6. For the purposes of this section, the term "parent" includes a child's legal**
58 **guardian and "minor child" means a child under eighteen years of age.**

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

5 "Shall the Missouri Constitution be amended to guarantee parents' exclusive right to
6 control the upbringing of their children, including but not limited to custody, education, religious
7 instruction, health care, and private information, with certain exceptions including those
8 necessary to protect against a clear, immediate, and substantial threat to the child?".

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