

# PARENTAL RIGHTS

## An Issue That Matters to Us All


### 93.6% of Americans Agree:

“In general, parents have the constitutional right to make decisions for their children without government interference unless there is proof of abuse or neglect”[1].

### The Courts Are Not Protecting These Rights.


The liberty of parents to direct the upbringing, education, and care of their children was once “established beyond debate as an enduring American tradition” (*Wisconsin v. Yoder*) [2].

Yet, though an overwhelming majority of Americans still agree with that tradition, the Court in *Troxel v. Granville* replaced the previous high level of protection with an ambiguous call for “some special weight” [3].



Every day, **families are broken apart** by state actors who wrongly assume they are able to make a better decision for a child than the parent can. Children removed from their parents suffer in such measurable outcomes as rates of teen pregnancy, criminal convictions, and adult poverty [4].

While **African American children** comprise 13.8% of the total child population [5], African American children comprise an estimated 23% of children in foster care [6]. In 2006, the U.S. Accountability Office attributed the “proportion of African American children in foster care” in part to “racial bias” [7].



The Ninth Circuit in *Fields v. Palmdale* [8] held “that the *Meyer-Pierce* right [of parents to direct the upbringing of their children] **does not extend beyond the threshold of the school door**” [9] and that “parents are possessed of *no constitutional right* to prevent the public schools from providing information on [any] subject to their students in any forum or manner they select.” (*emphasis added*)

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# Make History!

If passed, the Parental Rights Amendment would be the first amendment specifically **protecting rights of persons with disabilities**.



**35 states include disability** as grounds for termination of parental rights; 2/3 of dependency statutes allow the court to determine that a parent is unfit on the basis of a disability; and DC and 9 states (GA, KS, MD, MS, ND, NM, OH, OK, & SC) allow physical disability as the sole grounds for terminating parental rights, even without evidence of abuse or neglect [10]. Further, the shameful eugenics-era *Buck v. Bell* decision[11] remains the precedent for removing family privacy rights, including parental rights, from persons with disabilities.

Legally fit parents are **finding their parental rights taken away** when attempting to get medical treatment for their children. For example, 14-year-old Justina Pelletier was taken from her parents and languished in the hospital and in group homes for 18 months simply because Boston Children's Hospital disagreed with the diagnosis and direction of care she had received previously at nearby Tufts Medical Center.



## The Solution: The Parental Rights

Please help protect children: secure the tradition of parental rights as a fundamental right in the text of the Constitution by passing the Parental Rights Amendment.

[1] Zogby International, *Zogby Interactive Survey of Likely Voters* (August 2010), <https://secure.parentalrights.org/np/viewDocument?orgId=parentalrights&id=4028e4e55c813888015cfa25822f00ff>

[2] *Wisconsin v. Yoder*, 406 U.S. 205 (1972), at 232.

[3] *Troxel v. Granville*, 530 U.S. 57 (2000), at 70.

[4] Joseph Doyle, Jr., "Child Protection and Adult Crime: Using Investigator Assignment to Estimate Causal Effects of Foster Care," *Journal of Political Economy* 116, no. 4 (2008): 746-770.

[5] U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, *Child Maltreatment 2016* (2018), Appendix C.

[6] U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, *The AFCARS Report: Preliminary FY 2016 Estimates as of Oct 20, 2017*, no. 24 (2017), p. 2.

[7] U.S. Government Accountability Office, *Report to the Chairman, Committee on Ways and Means, House of Representatives: African American Children in Foster Care* (July 2007), 4.

[8] *Fields v. Palmdale*, 427 F.3d 1197 (9th Cir. 2005).

[9] This sentence was edited out by the en banc decision after severe public and congressional outcry, but the intent of the decision was unchanged. The next section was left intact.

[10] Christopher & Dana Reeve Foundation, *Parenting with a Disability: Know Your Rights Toolkit* (Short Hills, NJ: Christopher & Dana Reeve Foundation, 2016), 4-5. This stat has been marginally (but fortunately) reduced by new state laws passed in the last 6 months.

[11] *Buck v. Bell*, 274 U.S. 200 (1927).