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SENATE JOINT MEMORIAL 8004

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State of Washington

55th Legislature

1997 Regular Session

By Senators Stevens, Swecker, Rossi, West, Schow, Strannigan, Hochstatter, Horn, Zarelli and Oke

Read first time 01/28/97. Referred to Committee on Human Services & Corrections.

1 TO THE HONORABLE WILLIAM J. CLINTON, PRESIDENT OF THE UNITED  
2 STATES, AND TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE  
3 OF REPRESENTATIVES, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES OF  
4 THE UNITED STATES, IN CONGRESS ASSEMBLED:

5 We, your Memorialists, the Senate and House of Representatives of  
6 the State of Washington, in legislative session assembled, respectfully  
7 represent and petition as follows:

8 WHEREAS, The Supreme Court has regarded the right of parents to  
9 direct the upbringing of their children as a fundamental right implicit  
10 in the concept of ordered liberty within the fourteenth amendment to  
11 the Constitution, as specified in *Meyer v. Nebraska*, 262 U.S. 390  
12 [1923], and *Pierce v. Society of Sisters*, 268 U.S. 510 [1925]; and

13 WHEREAS, The role of parents in the raising and rearing of their  
14 children is of inestimable value and deserving of both praise and  
15 protection by all levels of government; and

16 WHEREAS, The tradition of western civilization recognizes that  
17 parents have the responsibility to love, nurture, train, and protect  
18 their children; and

19 WHEREAS, Some decisions of federal and state courts have treated  
20 the right of parents not as a fundamental right but as a nonfundamental  
21 right, resulting in an improper standard of judicial review being

1 applied to government conduct that adversely affects parental rights  
2 and prerogatives; and

3 WHEREAS, Parents face increasing intrusions into their legitimate  
4 decisions and prerogatives by government agencies in situations that do  
5 not involve traditional understandings of abuse or neglect but simply  
6 are a conflict of parenting philosophies; and

7 WHEREAS, Governments should not interfere in the decisions and  
8 actions of parents without compelling justification; and

9 WHEREAS, The traditional four-step process used by courts to  
10 evaluate cases concerning the right of parents described in the first  
11 paragraph of this resolution appropriately balances the interests of  
12 parents, children, and government;

13 NOW, THEREFORE, Your Memorialists respectfully pray that the  
14 Congress pass and the President sign into law legislation to:

15 (1) Protect the right of parents to direct the upbringing of their  
16 children as a fundamental right;

17 (2) Protect children from abuse and neglect as the terms have been  
18 traditionally defined and applied in state law, such protection being  
19 a compelling government interest;

20 (3) While protecting the rights of parents, acknowledge that the  
21 rights involve responsibilities and specifically that parents have the  
22 responsibility to see that their children are educated, for the  
23 purposes of literacy and self-sufficiency, as specified by the Supreme  
24 Court in *Wisconsin v. Yoder*, 406 U.S. 205 [1972];

25 (4) Preserve the common law tradition that allows parental choices  
26 to prevail in a health care decision for a child unless, by neglect or  
27 refusal, the parental decision will result in danger to the life of the  
28 child or result in serious physical injury to the child;

29 (5) Fix a standard of judicial review for parental rights, leaving  
30 to the courts the application of the rights in particular cases based  
31 on the facts of the cases and law as applied to the facts; and

32 (6) Reestablish a four-step process to evaluate cases concerning  
33 the right of parents described in the first paragraph of this  
34 resolution that:

35 (a) Requires a parent to initially demonstrate that:

36 (i) The action in question arises from the right of the parent to  
37 direct the upbringing of a child; and

38 (ii) A government has interfered with or usurped the right; and

1 (b) Shifts the burdens of production and persuasion to the  
2 government to demonstrate that:

3 (i) The interference or usurpation is essential to accomplish a  
4 compelling governmental interest; and

5 (ii) The method of intervention or usurpation used by the  
6 government is the least-restrictive means of accomplishing the  
7 compelling interest.

8 BE IT RESOLVED, That copies of this Memorial be immediately  
9 transmitted to the Honorable William J. Clinton, President of the  
10 United States, the President of the United States Senate, the Speaker  
11 of the House of Representatives, and each member of Congress from the  
12 State of Washington.

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