

HJR 105 -- PARENTS' RIGHTS

SPONSOR: Pollock (123)

Upon voter approval, this resolution amends the Constitution by adding Section 36 which states that parents shall have a fundamental right to exercise exclusive control over all aspects of their minor children's lives without governmental interference. This includes decisions of custody, upbringing, education, religious instruction, discipline, physical and mental health care, and place of habitation, unless the parent has committed or threatens clear, immediate and substantial physical injury.

The resolution also declares that every parent has a fundamental right to require government entities to obtain the parent's explicit permission before soliciting or sharing information obtained from a minor child about the child or the child's family, unless the information is obtained during a criminal investigation or, if enrolled in public school, the child's knowledge of academic subjects.

This amendment guarantees that every parent shall have the fundamental right to decide what educational settings in which to place their child.

This amendment lists several circumstances in which government interference with parental rights will be justified, including:

- (1) When protecting a child from a clear, immediate, and substantial threat of physical injury;
- (2) When a parent has been found by a court to have knowingly exposed a child to physical neglect, abandonment, reckless endangerment, or sexual or physical abuse;
- (3) When a parent has been found by a court to be incapacitated or mentally incompetent;
- (4) When a child has been emancipated by court order in accordance with state statutes;
- (5) When a court has assumed jurisdiction over a minor child charged with or convicted of violating a criminal statute; and
- (6) When a court of law has assigned parental rights to one parent or a non-biological parent as a result of mental incompetence, adoption, or marital dissolution.

Finally, this amendment permits any parent whose rights have been

adversely affected to challenge the constitutionality of the infringing law, policy, or other government act and seek damages and attorney's fees.

This bill is the same as SJR 55 (2020).