

By: Burkett

H.C.R. No. 38

CONCURRENT RESOLUTION

1 WHEREAS, The right of parents to direct the upbringing of
2 their children is fundamental, and the interests of children are
3 best served when parents are free to make decisions regarding their
4 education, their religion, and other aspects of their lives without
5 governmental interference; and

6 WHEREAS, In its 1972 *Wisconsin v. Yoder* decision, the United
7 States Supreme Court held that the "primary role of the parents in
8 the upbringing of their children is now established beyond debate
9 as an enduring American tradition," yet the more recent *Troxel v.*
10 *Granville* case resulted in a splintered six-way decision by the
11 supreme court that has caused ambiguity about the rights of parents
12 for courts at the state and federal levels; and

13 WHEREAS, Moreover, the U.S. Senate may be poised to ratify
14 the United Nations Convention on the Rights of the Child, which
15 would drastically alter the fundamental right of parents to direct
16 the upbringing of their own children; international law can
17 influence the supreme court's rulings, as illustrated in the 2005
18 decision *Roper v. Simmons*, raising the possibility that a future
19 court might allow external authorities to erode the American
20 tradition of treating parental rights as fundamental rights; and

21 WHEREAS, The proposed Parental Rights Amendment to the U.S.
22 Constitution states that "[t]he liberty of parents to direct the
23 upbringing and education of their children is a fundamental right,"
24 that "[n]either the United States nor any state shall infringe upon

1 this right without demonstrating that its governmental interest as
2 applied to the person is of the highest order and not otherwise
3 served," and that "[n]o treaty may be adopted nor shall any source
4 of international law be employed to supersede, modify, interpret,
5 or apply to the rights guaranteed by this article"; and

6 WHEREAS, The Texas Legislature has affirmed the importance of
7 parental rights in such statutes as Section 40.002(b)(2), Human
8 Resources Code, which spells out the need for the Department of
9 Family and Protective Services to "respect the fundamental right of
10 parents to control the education and upbringing of their children,"
11 and Section 151.003, Family Code, which establishes the type of
12 standard that should be instituted at the federal level by
13 providing that "[a] state agency may not adopt rules or policies or
14 take any other action that violates the fundamental right and duty
15 of a parent to direct the upbringing of the parent's child"; and

16 WHEREAS, Explicitly enumerating the rights of parents in the
17 Constitution of the United States will protect these rights in
18 perpetuity from the shifting ideologies and interpretations of the
19 supreme court and from the threat of being placed under the
20 jurisdiction of the international community, thereby preserving
21 the cherished American tradition of entrusting parents to raise
22 their own children; now, therefore, be it

23 RESOLVED, That the 83rd Legislature of the State of Texas
24 respectfully urge the Congress of the United States to propose and
25 submit to the states for ratification the Parental Rights Amendment
26 to the United States Constitution; and, be it further

27 RESOLVED, That the Texas secretary of state forward official

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1 copies of this resolution to the president of the United States, to
2 the president of the Senate and speaker of the House of
3 Representatives of the United States Congress, and to all the
4 members of the Texas delegation to Congress with the request that
5 this resolution be entered in the Congressional Record as a
6 memorial to the Congress of the United States of America.