

By: Hall

S.C.R. No. 2

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 United States is being encouraged to  
14 ratify the United Nations Convention on the Rights of the Child,  
15 which would drastically alter the fundamental right of parents to  
16 direct 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  
22 U.S. Constitution states that "[t]he liberty of parents to direct  
23 the upbringing and education of their children is a fundamental  
24 right," that "[n]either the United States nor any State shall

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

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

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

24       RESOLVED, That the 85th Legislature of the State of Texas  
25 respectfully urge the Congress of the United States to propose and  
26 submit to the states for ratification the Parental Rights Amendment  
27 to the United States Constitution; and, be it further

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