

# Gov. DeSantis Should Veto Florida's Tragically Flawed So-Called 'Parents' Bill of Rights'



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APR 25, 2021



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Thanks to the *South Florida Sun Sentinel* [editorial](#) for highlighting significant concern with a so-called “Parents’ Bill of Rights” (HB 241) that passed the Florida Senate this week and is now on the way to Gov. Ron DeSantis for either his signature or veto.

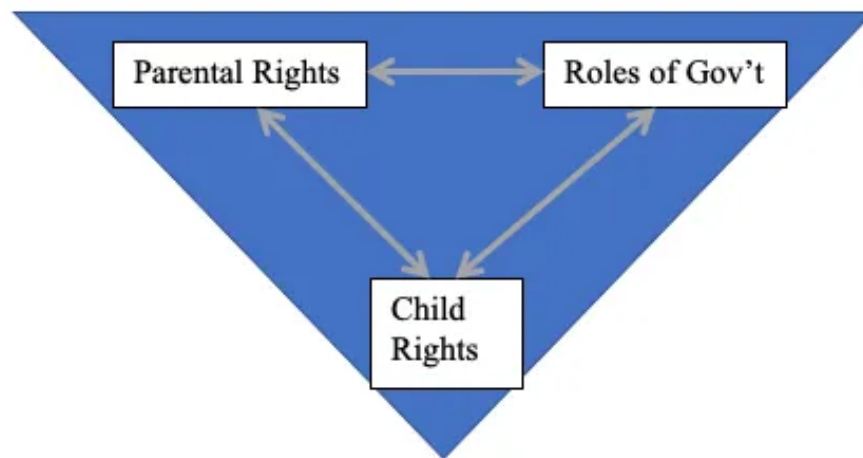
The Governor should veto this legislation because of its numerous problems and flaws. Instead, the Governor should form a special advisory committee that actually includes children and youth in the discussion about their health, education, and well-being. Kids, after all, might just have something to say about their own lives and future.

At the outset, let’s be clear that nobody disputes that parents and families are fundamental to the upbringing, education, and well-being of children. The U.S. Supreme Court has stated that parents have fundamental rights and responsibilities. For instance, in *Troxel vs. Granville* (2000), the Supreme Court concluded “the interests of parents in the care, custody, and control of their children” to be “perhaps the oldest and the fundamental liberty interests recognized by this Court.”

There is no doubt that the role of parents in the protection and well-being of children is vital. Consequently, the organization that I work for, First Focus Campaign for Children (FFCC), supports numerous pieces of legislation that respect and support the critically important role of parents, including the Child Tax Credit, Family First Prevention Services Act, Family and Medical Insurance Leave Act, the Homeless Children and Youth Act, Healthy Families Act, Trauma-Informed Care for Children and Families Act, Family-Based Care Services Act, Preventing Maternal Deaths Act

and other pieces of legislation that encourage parental involvement in schools and preventing the separation of migrant children from their parents and families, which violates the rights and best interests of both parents and their children.

However, HB 241 fails to recognize that children also have fundamental rights and government has a role in promoting the health, education, safety, and well-being of children as well.



There is no doubt that children need the support and protection of parents and government. But children also sometimes need protection **from** actions by parents and government that threaten their health, education, safety, and well-being.

In case we need reminding, a Commission to Eliminate Child Abuse and Neglect Fatalities published an extensive [report](#) in 2016 that found:

*Every day, four to eight children in the United States die from abuse or neglect at the hands of their parents or caretakers. No one knows the exact number, and there has been little progress in preventing these tragic deaths. Most of the children who die are infants or toddlers.*

While most parents deserve deference in the upbringing of their children and support to help any parents struggling to fulfill parenting duties, some parents are simply

unable to live up to the responsibilities and duties of parenting. The reality is that, tragically, some parents are violent, criminal, unfit, and a danger to children.

As [Florida Rep. Susan Valdés \(D-Tampa\)](#) said to WPTV in West Palm Beach:

*I can't support the bill because I am thinking about all—all of the children. Not just those that have good parents.*

Consequently, undoubtedly parents do have rights, but they also have the responsibility and duty of addressing the needs of children and youth, acting in the best interests, and protecting them from harm.

To ensure the protection of the health, education, safety, and well-being of **all** children, a balance should be reached. Unfortunately, there are a number of problems with the Florida Legislature passed so-called “Parents’ Bill of Rights” that fail that important test.

As the *South Florida Sun Sentinel* editorial rightfully points out, there are enormous problems with the legislation. The language in the bill is sweeping and radical. It systemically fails to recognize or protect the fundamental rights, voice, and best interests of children.

[HB 241](#) by Rep. Erin Grall (R-Vero Beach), reads:

*The state, any of its political subdivisions, any other governmental entity, or any other institution may not infringe on the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of his or her minor child without demonstrating that such action is reasonable and necessary to achieve a compelling state interest and that such action is narrowly tailored and is not otherwise served by a less restrictive means.*

The rights of parents are emphasized, the role of government is deemphasized and minimized, and the rights and voice of children are deemed non-existent in this bill.

even when it comes to their own well-being and future. This is wrong. As Justice Jo Paul Stevens wrote in *Troxel vs. Granville* (2000):

*Cases like this do not present a bipolar struggle between the parents and the State over who has final authority to determine what is in a child's best interests. There is at minimum a third individual, whose interests are implicated in every case to which the statute applies to the child. . . [T]o the extent parents and families have fundamental liberty interests in preserving such intimate relationships, so, too, do children have these interests, and so, too, must their interests be balanced in the equation.*

HB 241 fails to achieve that balance and it may have tragic consequences, particularly for vulnerable and marginalized children.

## Threats to Child Health

First, in the "Parents' Bill of Rights," the language is so broad and far-reaching that parents could opt out their individual children from public health measures, such as mask wearing requirements by schools related to the COVID-19 pandemic, even if these actions could threaten the health and lives of children and adults in schools, child care, or afterschool programs.

Although the anti-mask community is declaring the passage of this bill as some sort of victory, what about the [rights of parents of immunocompromised children](#), such as kids who have had cancer or had an organ transplantation, who just want schools to do all they can to protect the health of their children?



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People hurled racist insults at those supporting a mask mandate in a Florida school district



### People Hurl Racist Insults During School Board Meeting

People hurled racist insults at those supporting a mask mandate in a Florida school district

10:23 PM · May 11, 2021

Furthermore, according to [data](#) from the American Academy of Pediatrics and the Children's Hospital Association, as of April 15, 2021, Florida had the 3rd highest rate of cumulative cases of COVID-19 infections in children in the United States. The number is approximately 180,000 cases in Florida and that number represents a vast underreporting because Florida is one of two states in the country (the other is Utah) that reports on COVID-19 cases for children up to only 14 years of age. There have been 3.6 million cumulative cases of reported COVID-19 cases in children nationally.

Florida also happens to have one of the fastest growing rates of COVID-19 cases as well, so how is that a "victory"?



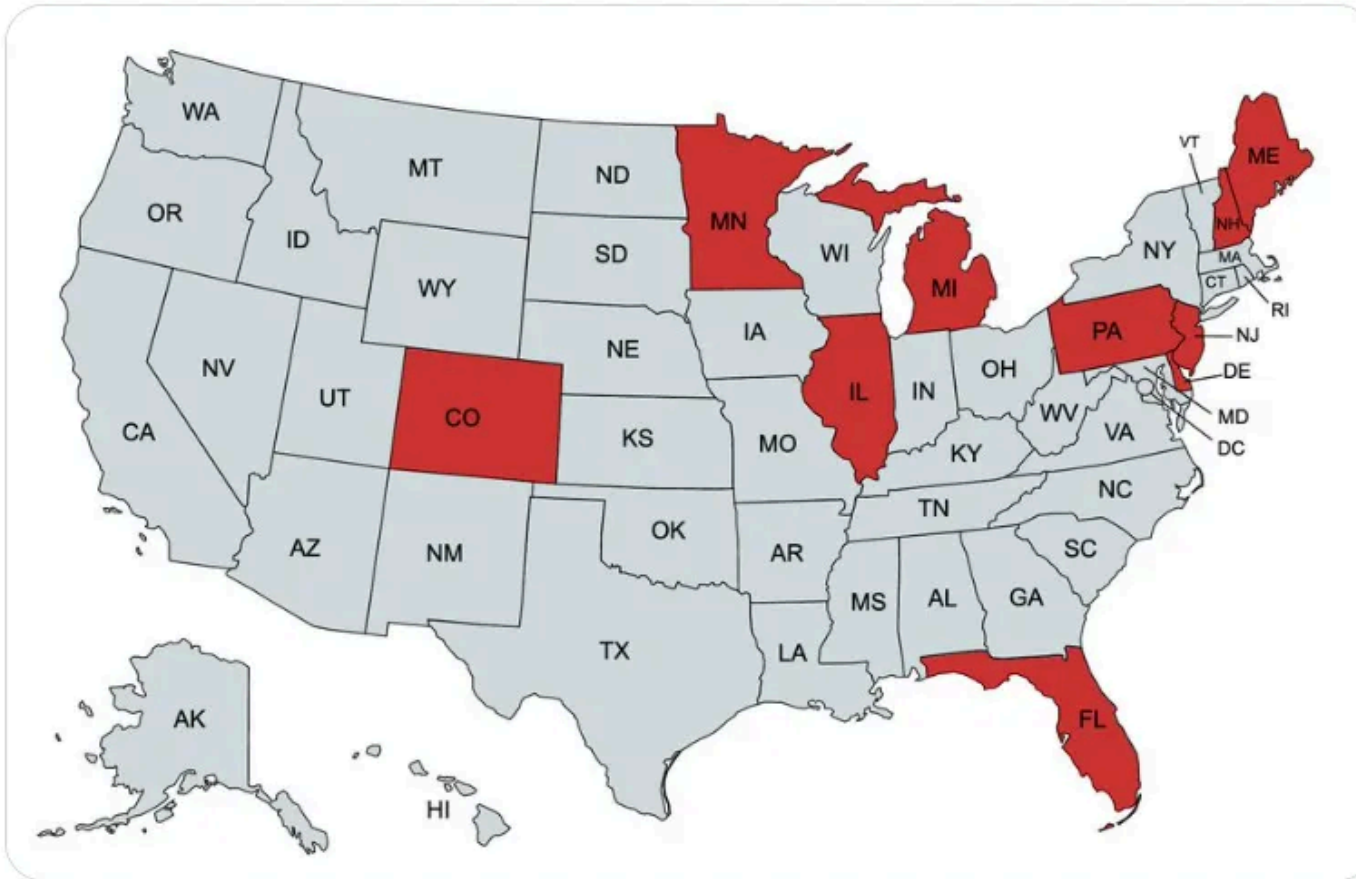


**David Waldman - @KagroX@mstdn.party**

@KagroX

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Top ten states in new cases (4/24) per 1M/population:



11:36 PM · Apr 24, 2021

Also beyond masks, what's next? Can parents reject public health protections in a future pandemic under this law? How about the requirement that parents keep children home who are vomiting, have a fever, diarrhea, a communicable disease, et cetera. Again, the language is rather sweeping.

Second, the legislation reaffirms “the right of a parent to exempt his or her minor child from immunizations.” The problem is that vaccine exemptions are growing nationwide, but those rates are higher in Florida. [According to an April 2019 article in the Orlando Sentinel:](#)

*When accounting for all children up to 18 years old, including those in private schools and preschools, between 2013 and 2018, the total religious exemptions in Florida climbed each year from about 12,200 students to nearly 25,000—an increase of about 105 percent over that span of time, according to data provided by the Florida Department of Health.*

This poses a danger to children. As the *Orlando Sentinel*'s Naseem Miller and Cindy Krischer Goodman explain:

*As measles outbreaks are popping up across the country and the number of unvaccinated children in Florida is climbing, state health officials and parents worry that one of the most infectious diseases that was practically eliminated in the United States two decades ago could have a resurgence.*

And during the COVID-19 pandemic, vaccine rates have dropped even further.





**Timothy Caulfield**  
@CaulfieldTim

9/1

Ugh.

"Child vaccination rates declined during COVID-19 pandemic"  
[medicalxpress.com/news/2021-04-c...](https://medicalxpress.com/news/2021-04-c...) via [@medical\\_xpress](#)

"...measles vaccine uptake remained substantially reduced, so the population of unvaccinated children is continuing to grow,"



medicalxpress.com

**Child vaccination rates declined during COVID-19 pandemic**

The numbers of recommended vaccine doses, including measles vaccine, administered to children decreased dramatically after the declaration of a ...

3:37 PM · Apr 18, 2021

Third, the bill creates barriers to care for children. It reads:

*. . .a health care practitioner. . .or an individual employed by such health care practitioner may not provide or solicit or arrange to provide health care services or prescribe medication or drugs to a minor child without first obtaining written parental consent.*

On its face, this language may not seem problematic, but it could result in tragedy in certain cases. For example, school nurses and [athletic trainers](#) at school events see and treat children all the time for issues related to illness, sports injuries, etc. Can they provide a health care evaluation or service to a child suffering from acute appendicitis, an asthmatic attack, an allergic reaction, a sprained ankle, a broken bone, or a concussion without first obtaining **written** parental consent? Schools often obtain blanket waivers from parents, but this language would appear to undermine that. Would parental written consent need to be obtained for every service provided by health officials in schools? Does this include school counselors?

Beyond schools, this language allows parents to deny health care services from any “health care practitioner,” unless government officials, such as a judge, can point to a “compelling state interest” to protect the health and well-being of a child. Does this new law effectively make it harder for children to be protected from potential medical harm or neglect?

For example, in 2019, a Hillsborough County judge ordered that 3-year-old Noam McAdams should continue chemotherapy at Johns Hopkins All Children’s Hospital over the advice and counsel of doctors rather than the parents’ desire to stop cancer treatment and use, [according to NBC News](#), “other methods such as an alkaline diet and cannabis.”



**New York Daily News**  
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"Noah McAdams is at substantial risk of imminent death by his parents," a judge said in his final ruling.

The 4-year-old Florida boy with leukemia will remain in the custody of his grandmother after his parents refused to get him chemotherapy.



nydailynews.com

Florida parents denied custody of 4-year-old son during battle over cancer tr...

A 4-year-old Florida boy with leukemia will remain in the custody of his grandmother after his parents refused to get him chemotherapy, a judge rule...

9:28 AM · Sep 10, 2019

In Idaho, parental rights are granted in virtually all matters related to the health of their children, including the use of faith healing rather than medical treatment. This has resulted in tragic health outcomes, including the death of children. The *Washington Post* reported in 2018:

*Child advocates estimate that 183 Idaho children have died because of withheld medical treatment since states across the nation enacted faith-healing exemptions in the early 1970s.*

As Roger Sherman, executive director of Idaho Children's Trust Fund says:

*No child should die as a result of neglect of any kind. . . Idaho policymakers have chosen to ignore this aspect of medical neglect. The most vulnerable members of society needed the protection of adults in society.*



**The Spokesman-Review**

@SpokesmanReview

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Protesters calling for repeal of Idaho's faith-healing exemption deliver 183 child-sized coffins to Capitol steps [spokesman.com/stories/2018/f](https://spokesman.com/stories/2018/f).



7:40 PM • Feb 19, 2018

Proponents would likely argue that parental actions that lead to death are not allowed by HB 241, but in the case of the young woman pictured in *The Guardian* story, her parents withholding of medical treatment has caused her significant and life-long health issues.



Letting them die: parents refuse medical help for children in the name of Christ | [@jason\\_a\\_w](#) [#QandA](#) [gu.com/p/4t5cg/stw](#)

7:34 PM · Apr 19, 2016

Fourth, parental consent should not be required in cases where adolescents wish to seek out “[confidential care](#)” and [privacy](#) in obtaining certain health care services. While parent and adolescent communication on health care issues should always be encouraged, as [Abigail English and Dr. Carol Ford explain](#) in *The Journal of Pediatric*, confidentiality and privacy are critically important to adolescents in some circumstances:

*Decades of research findings have documented the ways in which privacy concerns influence adolescents’ willingness to seek healthcare, where and when they seek care, and how candid they are with their healthcare providers. In the absence of confidentiality protections, some adolescents forego care entirely, some delay care or avoid visiting providers they perceive as not assuring confidentiality, and some limit the information they are willing to disclose.*

*These findings have provided a strong rationale for protecting the confidentiality of adolescents’ health information and their communications with healthcare providers. The underlying rationale for confidentiality in adolescent healthcare is to protect the health of adolescents and promote public health goals such as: reducing unintended teen pregnancy, sexually transmitted infections (STIs), and substance abuse; and encouraging early intervention to address depression.*

The authors add:

*Not all adolescents have parents who are available, willing, and able to communicate with them about sensitive issues, and not all adolescents are willing to share information about all sensitive health issues with their parents. In this context, confidential consultation with a healthcare provider can play an essential role. Eliciting candid information about adolescent concerns, health behaviors, and symptoms clearly increases clinicians' opportunities to address concerns, provide evidence-based prevention and risk-reduction counseling, and ensure timely diagnosis and treatment.*

With potentially tragic consequences, HB 241 undermines the affirmative rights of young people to seek out health care providers to offer treatment or counseling for suicide prevention, mental health, substance abuse, cancer screening, family planning and reproductive health services, infectious diseases, or emergency care services without first obtaining written parental consent.

In fact, health care providers that help a child without obtaining prior written consent from parents if HB 241 is signed into law could be prosecuted as committing a “misdemeanor of the first degree” and subjected to disciplinary action, such as fine even imprisonment for up to one year.

Fifth, in addition to denying children access to health care services, the bill's language takes the additional step of allowing parents to demand certain health care treatment be performed **on** their children. It reads:

*The right to make health care decisions for his or her minor child, unless otherwise prohibited by law. . .*

HB 241 adds:

*Unless required by law, the rights of a parent of a minor child in this state may not be limited or denied. This chapter may not be construed to apply to a parent action or decision that would end life.*



Short of an action or decision that would result in death, this language suggests parental rights “may not be limited or denied,” even if it might be detrimental to the health and well-being of children and against the will of a child or adolescent. The language reopens grave concerns about the role some parents have played in decisions to impose [female genital mutilation](#), conversion “therapy,” [rebirthing “therapy,”](#) certain types of involuntary institutionalization of children, seclusion and restraint, [forced sterilization of children with disabilities](#), and other harmful or detrimental “care”.

Parents are not medical experts and sometimes buy into social media “cures” or “treatment” that are anything but cures and treatments. Regardless, HB 241 would put into law the following language:

*The state, any of its political subdivisions, any other governmental entity, or any other institution may not infringe on the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of his or her minor child without demonstrating that such action is reasonable and necessary to achieve a compelling state interest and that such action is narrowly tailored and is not otherwise served by a less restrictive means.*

Unfortunately, some parents across the country bought into an array of false or dangerous treatments for autism that, [according to NBC News](#), included “industrial bleach. . . , turpentine or their children’s own urine as the secret miracle drug for reversing autism.”

In Florida, the [New York Times reports](#) that on Friday a federal grand jury indicted Florida man and his three sons running a “business masquerading as a church” for selling over \$1 million of a toxic bleach solution called “Miracle Mineral Solution”: “religious sacrament and ‘miracle’ cure for Covid-19, cancer, autism, Alzheimer’s disease and more.”

Protections for children from such harm would be more restricted by HB 241. Disturbingly, under the language, laws that create limitations on parental authority

can only be enacted if there is a “compelling state interest” rather than because of the best interests of children or harm to children.

As a result, the protections that children need from harmful decisions or “therapies” and the fundamental self-determination rights of adolescents to affirmatively seek or refuse medical services or information and to provide assent and consent with respect to their own health care and body are ignored, at best, or undermined by this legislative

Sixth, the legislation appears to create enormous ambiguity and problems with respect to end-of-life care for a child. This legislation does paradoxical things. In the case of parents, it says that parental authority is not applied with respect to actions or decisions that would “end life.” Although it is believed this language was included to preclude parents from requiring a child to have an abortion or to deny life-saving care, the circumstances change in the context of a child with a terminal illness or who is brain dead and in a coma. In such a case, does this mean that a parent cannot make end-of-life decisions?

Meanwhile, according to the Florida Legislative staff analysis of HB 241, the role of government also declines. The analysis reads:

*...the state also has an obligation to ensure that children receive reasonable medical treatment that is necessary for the preservation of life. The state's interest diminishes as severity of an affliction and the likelihood of death increase:*

*There is a substantial distinction in the State's insistence that human life be saved where the affliction is curable, as opposed to the State interest where ... the issue is not whether but when, for how long and at what cost to the individual ... life may be briefly extended*

So, who is left to make such decisions? Who decides?

## Threats to Privacy of Children

In addition to threats to the health of children, the bill also undermines their basic privacy rights. The bill reads:

*The Legislature further finds that important information relating to a minor child should not be withheld, either inadvertently or purposeful, from his or her parent, including information relating to the minor child's health, well-being, and education, while the minor child is in the custody of the school district.*

My parents were life-long educators. Both have numerous instances in which their students told them things in confidence out of fear of physical harm or possible disownment by parents due to their political or religious opinions, sexual preference or desire to obtain reproductive health information. Under HB 241, teachers or other school personnel would potentially be disciplined, fined, or disciplined if they “withheld” such information from parents, even if the student asked for such privacy and argued sharing such information could lead to disownment, harm, or abuse.

For example, [John Mower with Equality Florida](#) said in the *Daytona Beach News-Journal* pointing out that the legislation “could compel schools to out LGBTQ youth.”

Mower adds:

*We wish that all youth, including LGBTQ youth, had supportive and affirming families, we know that that is not always the case. Schools are sometimes the only place of safety for our LGBTQ youth. Many of them come out to teachers or guidance counselors, before they come out at home.*

The *Daytona Beach News-Journal* also cites opposition by Trish Neely with the League of Women Voters of Florida to the bill. As [Neely says](#):

*Developing responsibility for health care is part of building a healthy adulthood. The vast majority of young people exercise this responsibility in consultation with their parents. There are some ones that don't probably have good reason. Not all parents deserve parenthood, nor can we legislate that.*

Mower agrees and [told WFSU Public Media](#):

*It's not just about sexual orientation and gender identity. We know that students can also disclose other things they're seeing in the home. . .and compelling these educators to disclose that information to parents could endanger these young people.*

As [Florida Sen. Lori Berman \(D-Lantana\)](#) said in the *South Florida Sun-Sentinel* in a debate over the bill in 2020:

*School personnel have always been a safety net for children having home issues. This legislation disrupts the safety net and can be harmful to our most at-risk students.*

In the last few years, I have served as a volunteer high school assistant basketball coach. Our players have told both the head coach and me things—both minor and major—in confidence. In reading the bill language, I literally have no idea as to what constitutes information that I would be compelled to tell parents related to their “health, well-being, and education.”

Beyond basketball, pretty much everything kids talk about is related to health, well-being, and education. They talk about their thoughts, their hopes, their fears, their dreams, and their ideas. The educators who listen to kids and help them should be allowed to do so without threatening their privacy and trust. Instead, this legislation threatens educators with possible punishment and fines.

## **Additional Burdens Imposed Upon Public Schools**

Related to this, the legislation places additional burdens upon schools and educators to adhere to the demands of individual parents in their child's education. In fact, the “Parents' Bill of Rights” goes so far as to allow parents to significantly micromanage many aspects of their child's education.

The [Florida House of Representatives's staff analysis](#) of HB 241 indicates that, in addition to the whole range of requirements that public schools currently have, the

imposes a litany of new policies and notification requirements on schools to address individual parental issues.

HB 241 could potentially result in a flood of litigation initiated by individual parent at taxpayers' expense, against anyone working with children, including teachers, librarians, counselors, social workers, and nurses, or even between parents with opposing values.

Disgruntled parents could create havoc in schools and communities across the country by demanding changes to curriculum and teaching methods that might then conflict with the desires of other parents with children in the schools and the community. Education decisions and disputes would have to be litigated by the courts as "parent rights" cases rather than by communities and parents within the schools themselves. This would be an outright disaster for Florida's education system and children would be the biggest losers.

## **Threats to Child Protection and Safety**

And last, the legislation is also concerning with respect to child abuse. Although there are other laws in statute that address child abuse, this legislation's sweeping language could arguably preempt aspects of those protections for children. According to the bill:

*A parent of a minor child in this state has inalienable rights that are more comprehensive than those listed in this section, unless such rights have been legally waived or terminated. . . Unless required by law, the rights of a parent of a minor child in this state may not be limited or denied.*

HB 241 adds, for example, that in the case of suspected physical or sexual abuse of a child, a health care practitioner cannot withhold access to a child's medical record from a parent unless "the parent is the subject of an investigation of a crime committed against a minor child **and** a law enforcement agency or official requests that the information not be released."

If you know anything about child welfare agencies and law enforcement investigations, this may take many weeks, months, or even years before a suspected child abuser can be stopped from accessing a child's medical record.

In short, parents are granted sweeping rights under this bill short of “a parental act or decision that would end life” or a “compelling state interest” that is narrow and limited by a “strict scrutiny” standard.

The State of Florida should not need to be reminded that this type of language has led to enormous problems in the child welfare system in past years. In an award-winning series by the *Miami Herald* in 2014, [reporters found](#) that changes to the child welfare system supported by “parents’ rights groups. . .who wanted the government to stop meddling in the lives of families” led to the deaths of hundreds of children at the hands of their parents because of the decline in government case workers, preventive services, and removals of children from dangerous parents.





**Miami Herald** ✓  
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[#InnocentsLost](#): Florida's undercount of child abuse deaths  
[hrld.us/1li1FNZ](http://hrld.us/1li1FNZ)



8:35 PM · Mar 24, 2014

The appropriate role of government should be to support parents, engage in the prevention of harm, and to remove children from parents in extreme circumstances. Unfortunately, after the changes pushed by parents' rights groups and some child advocates, government was doing less of all three things of importance to the protection, safety, and well-being of children.



## **Reject HB 241 and Find a Better Balance of Protections for Children**

To restate my initial point, the rights of parents are critically important. However, parents also have duties and responsibilities to children. This has been lost in HB 2

In addition, government also has an important role here to be supportive of parents and to promote the health, education, safety, and well-being of children.

And finally and most importantly, children need the support of parents and government. But sometimes children need protection **from** both parents and government, such as when children are physically or sexually abused by parents and the government's child welfare system fails to protect them.

Unfortunately, HB 241 fails children because it fails to understand four important facts:

- *Parents are the guardians of and not the owners of children;*
- *The legislation does not recognize that, when it comes to policy that impacts children, their best interests must come first and their rights and voice must be fully heard and considered;*
- *The lives of children are best served when parents, government, and children are working together—rather than at odds—toward the common goal of improving their lives and well-being. By failing to understand these basic tenants of child development, the so-called “Parents’ Bill of Rights” includes a number of provisions that threatens the health, education, privacy, and safety of children; and,*
- *Children and youth have fundamental rights.*

Consequently, Gov. DeSantis should veto HB 241 and form a special advisory committee to correct its many flaws.

If the threats to the lives and well-being of children are not persuasive to the Governor to veto HB 241, maybe the unanswered questions and unintended consequences that

this bill creates might be. In addition to all the questions previously raised, we all know that sometimes parents are not in agreement and something they are just wrong. As a result, what should a health care practitioner or an educator do if a child's two parents tell them contradictory things about how to address their child's health or educational needs? What happens to a child that does not have a functional or legal guardian? Does parental consent apply to a parent or parents who are not really involved in the lives of their children? What happens if a parent thinks putting a child in a cage or denying a child food is, as part of their newly established parental right for punishment?

We can be sure of one thing: the consequences of this bill will lead to a surge of litigation.

Before signing the bill, we ask Gov. DeSantis to ask himself the simple question, "Is it good for the children?" Based on its threats to the health, education, privacy, safety and well-being of children, the answer should be a resounding "NO!"

### **If Gov. DeSantis Signs It, Child Advocates Should Think Creatively**

However, if Gov. DeSantis decides to sign the bill and it goes into law on July 1, child advocates should begin thinking creatively about ways to mitigate the bill's harm and to use the bill's language in ways that might provide some important benefits to children and families.

For example, the bill directs government and institutions not to "infringe on the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of his or her minor child." Therefore, parents should affirmatively demand a right to better family medical leave and sick leave benefits from government and businesses. The denial of family medical leave and sick leave benefits could be argued by parents to be an undue burden that negatively impacts their "parental rights."

Furthermore, undue burden arguments should also be considered in supporting of elimination of bureaucratic paperwork requirements imposed upon parents to get themselves, their family, or just their children enrolled in certain health care, nutrition, housing, or other programs. The point that parents could make is that bureaucratic red tape burdens “infringe on the fundamental rights of a parent to direct the . . . health care and mental health” of their children.

In addition, parents who object to high-stakes testing mandates imposed by the government and schools, inequality in school funding, the violation of their children's basic rights by law enforcement (including school resource officers), certain school discipline or seclusion and restraint policies, or who want open records from institutions like the Catholic Church or Boy Scouts when it comes to sexual abuse should be able to demand changes. The language in HB 241 is sweeping, so if it can be used to prevent schools from requiring a child to wear a mask to protect people in a pandemic, maybe some language could be used in other ways that are more beneficial to children.

To the proponents of this bill, I say to be careful what you wish for. To child advocates I would argue that if you are handed lemons, sometimes the best thing to do is be creative and make lemonade or learn to juggle.

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