

# How a 'Parental Rights' Bill Threatens the Health, Education, and Safety of Children



BRUCE LESLEY  
JAN 24, 2024



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When politicians introduce bills and make policies that impact children, they should ask and answer this one question: “Is it good for the children?”

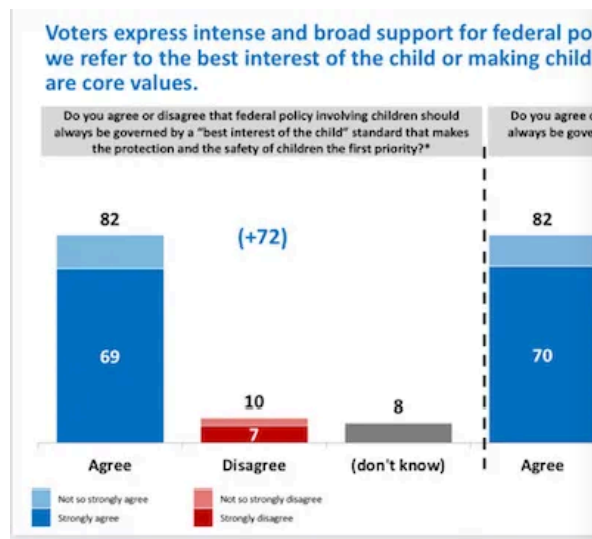


This seems like something that would be fundamental and common sense, but it is shocking how often that does not happen. Sadly, children are often treated as an afterthought or are [invisible to policymakers](#). Even worse, [the budget and policy priorities of lawmakers often fail children](#).

For example, when the improved Child Tax Credit was allowed to expire at the close of 2021, child poverty more than doubled from a low of 5.2% in 2021 to 12.4% in 2022. Nobody can sensibly or seriously argue that increasing the number of children living in poverty from 4 million to 9 million is good public policy, and yet it happened.

Furthermore, in the recent [2023 Legislative Scorecard](#) by First Focus Campaign for Children, an astounding 80%, or 20 of the 25 recorded floor votes taken in the House and Senate last year, were detrimental to children.

The [American public has spoken on this matter](#), and they are on the side of children. They overwhelmingly believe that public policies should be governed by standards that prioritize the best interests (82-10%) and well-being (82-9%) of children – *not* by policies that ignore or harm them.



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The neglect or harm to children in the policy arena can include, including:

- Children lack the voting power to influence the political process directly;
- Children's issues often receive less media attention, diminishing public discourse;
- Politicians are responsive to voters, campaign contributors, and those with political and economic power – all things that children lack;
- Politicians, who disproportionately are much older, are disconnected and often lack awareness or understanding of the unique challenges facing young populations and children;
- There is a deficit of funding for child advocacy compared to other interest groups;
- The needs of children have life-long implications that extend beyond the short-term focus of electoral cycles;
- "Childism", or societal prejudice against young people, can lead to their needs being systematically deprioritized, devalued, or misunderstood, exacerbating their marginalization in political decision-making;
- Children are, far too often, used as political pawns, as politicians use kids as a rhetorical device or as bargaining chips to demand support for other priorities unrelated to the needs or concerns of children;
- In the name of "protecting children," politicians sometimes embrace poorly constructed policy solutions that would do more harm than good (e.g., book bans);
- Policy debates and decisions are frequently framed around the interests of adults rather than the interests or needs of children, even for policies that are about kids; and,
- The nature of children's representation through adults (i.e., parents or guardians) often dilutes their interests, as adult interests may prioritize issues that are about them rather than the needs of children.

Again, to avoid these pitfalls, politicians should ask and answer, “Is it good for the children?”

### **The “Families Rights and Responsibilities Act” Would Harm Children**

Unfortunately, a recent piece of legislation, the “Families’ Rights and Responsibilities Act” (S. 3571/H.R. 6934), by Sen. Tim Scott (R-SC) and Rep. Virginia Foxx (R-VA) fails children by falling victim to many of these factors. For one, the bill frames the protection of children as being a holy war of some sort between the interests of parents and government in which parental decision-making must be protected at all costs from governmental overreach.

As a result, the bill argues that parents have “fundamental rights” that are “without limitation” for education, moral or religious upbringing, and the health of children and allows parents to take actions short of “serious physical injury to the child or that would end life.”

In *Trovel v. Granville*, Justice John Paul Stevens agreed with the “presumption that parental decisions generally serve the best interests of their children,” but he noted that “even a fit parent is capable of treating a child like a mere possession.”

Thus, kids need protections too.

Stevens explains:

*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 — 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.[1]*

Children and their well-being matter and must not be ignored.

Therefore, in a letter on behalf of First Focus Campaign for Children (FFCC), we explained our [opposition to the bill and highlighted this point](#):

*...the bill’s sweeping language calls into question whether government can intervene and protect children from physical, mental, or sexual abuse – short of serious physical injury or death.*

While the bill seemingly advocates for family autonomy to be paramount, the legislation overlooks some fundamental truths of importance to children and their lives:

- Children need the support **by** both parents and government to thrive, but sometimes need protection **from** parents and government, such as when children are physically or sexually abuse by parents and the government's child welfare and juvenile justice systems compound and unduly harm children;
- Some parents use their "rights" in harmful or detrimental ways to children and fail to live up to their "responsibilities";
- Children have fundamental needs, concerns, and rights that should be recognized (and not ignored) as a bedrock of child well-being and protection; and,
- Children are not the property of their parents.

Children — their voices, their needs, their concerns — must count and matter. They do not in S. 3571/H.R. 6934. As our [letter of opposition to the Scott/Foxx bill](#) explains:

*Although S. 3571/H.R. 6934 note in the findings that parents have the "responsibility to love, nurture, raise, and protect their children," the legislative language undermines even the most limited protections and rights that children currently have and would create greater threats to the safety, education, health, and well-being of children.*

Yale's Samantha Godwin writes:

*When evaluating the extent of parents' legal rights, we should not merely consider how ideal parents exercise their power to provide the effective care and guidance children need. The extent of what the law enables imperfect parents to do to their children must also be taken into account. The issue is not only what role we hope that parents play in their children's lives, but how the powers actually granted might be used and abused for better or worse. Thinking only in terms of how the best parents conduct themselves is a mistake; it is also necessary to account for what the worst parents can get away with.[2]*

On this point, our [FFCC letter](#) explains:

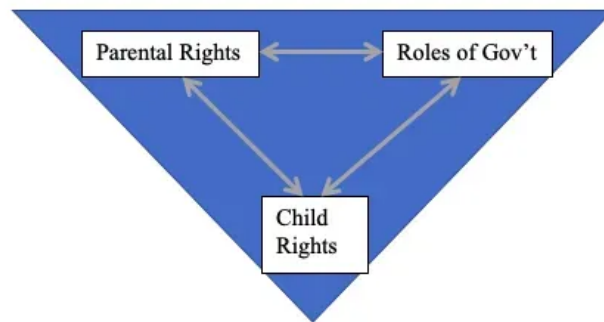
*For the vast majority of families and children, their interests are aligned and shared.*

*But the law must protect children from "imperfect parents" as well. Legislation, whether intentional or unintentional, should not be a vehicle to enable the abuse or neglect of children or whatever "the worst parents can get away with."*

In case we all 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.*

The narrative of children's rights should not be a peripheral subplot in the larger story of human rights. It is central to the story of who we are as a society and what we hope to become.



## Children Are Not the Property of Parents

In an [opinion piece](#) in *The Hill*, Kristen Waggoner of the Alliance Defending Freedom (ADF) expresses her support for the Scott/Foxo bill and begins by asking:

*Who do children most fundamentally belong to?*

Her answer is “parents,” but the question itself is wrong because it presumes children are a form of property without separateness or inherent or fundamental rights, feelings, experiences, or thoughts that are uniquely their own – not those to be controlled by parents.

Children are not property, and we should not go back to that time in society when they were often treated as such. [According to Barbara Bennett Woodhouse:](#)

*As late as 1920, a parent who killed a child in the course of punishment could claim a legal excuse for homicide in no fewer than nine states. Well into the nineteenth century, a father could enroll his male children in the army and collect the enrollment bounty, betroth his minor female children to persons of his choice, and put his children to work as day laborers on farms or factories and collect their wage packets.*

Fortunately, things have changed. Woodhouse explains:

*As family law matured, American law increasingly characterized parents as the guardians not the owners of their children.*

Let's not head a century backward.

## This Bill Provides a Parental Defense for Physical, Emotional, and Sexual Abuse

The clear goal of S. 3571/H.R. 6934 and that of groups like the ADF and the Parental Rights Foundation, who would take it even further as they seek a [parental rights](#)

[constitutional amendment](#), is almost unlimited and unrestricted parental control over children.

Short of the exceptions of a “parental action or decision that would result in serious physical injury to the child or that would end life,” the legislation includes explicit language in which a parent could use this legislation to claim parental rights and legal protections from government protection, such as that by the police, child protective services, or the courts, to protect children from physical, emotional, or sexual abuse or harm.

In child welfare, the law must balance protecting the integrity and authority of parents versus the safety of children. Government must not remove children from families inappropriately. On the other hand, children are less powerful than adults and are particularly vulnerable targets for physical, emotional, and sexual abuse — but also abuse of power – by parents.

The reality is that most parents are incredible. However tragically, some parents are violent, criminal, unfit, and a danger to children.

Therefore, the role of government should be to, preferably, prevent child abuse or, at the very least, to put a stop to the abuse. The answer to missteps by governmental officials in this area is not abolition, as that leaves children essentially unprotected from harm. Unfortunately, S. 3571/H.R. 6934 hinders or guts such protections for kids.

### **The Bill Would Give Parents the “Right to Direct Education” – On All Issues?**

This bill also takes “helicopter parenting” to a whole new level. According to Sen. Scott, “Parents have a fundamental right to control the upbringing of their child, whether it’s in the classroom or at home.”

Consequently, his bill includes language that would put into federal law that parents have a right “to direct the education of the child” and that such rights must be protected “without limitation.”

Of course, parents already have the right to send their kids to public school, private school, or to engage in homeschooling. They also have a right to engage in school board elections, to serve on the PTA, to volunteer at their child’s school, and to communicate directly with their children’s teachers and school administrators.

But this bill demands something far more sweeping. ADF argues:

*Every mother or father should be able to determine the instruction that their child receives. Public schools should obtain written consent for instruction on topics related to Critical Theory and Identity, including but not limited to, topics such as race, sex, sexual*

*orientation, and gender identity. Parents should be able to opt their child out of any instruction that violates their beliefs and should be able to hold the government accountable if their rights are violated.*

There is much to unpack here.

First, “every mother or father”? Does this include step-parents? What about other caregivers or custodian parents? What if parents disagree within a household? What if parents disagree in a classroom?

ADF’s demand for written consent on the listed array of topics is ridiculous and unworkable. On a given day, a history or civics teacher may have five classes of 30 students each and so would need 150 signed permission slips to talk about slavery, the Civil War, Jim Crow, the women’s suffrage movement, the Trail of Tears, the Holocaust, Japanese-American internment camps in World War II, or the presidency of Barack Obama?



**Antonia Hylton**  
@ahylton26

...

This afternoon, teachers in Southlake are required to go through a training about books they’ll have to remove from their classrooms, according to a doc obtained by [@Mike\\_Hixenbaugh](#) [@NBCNews](#). Teachers describe the books as being mostly about kids of color.



Southlake, Texas, schools restrict classroom libraries after backlash over anti-racist book

From nbcnews.com

9:45 AM · Oct 8, 2021

As for opting kids out of “any instruction that violates their beliefs,” one can only hope that ADL is just being hyperbolic. For instance, are teachers really supposed to ask



which parents are “flat-earthers” so that their kids can be excluded from certain types of science or history lessons on the Earth’s rotation, wind, seasons, etc.?

Now, what about **all** of the other “beliefs” of people? I highlighted how ludicrous and inoperable this would be for schools in a previous [newsletter](#):

*For example, imagine an elementary school of 450 students where 15 parents oppose the teaching of evolution, 19 parents believe the earth is flat, 28 are Holocaust deniers, 22 oppose white children learning about slavery, 7 believe in racial segregation, 21 believe in the concept of a school without walls, 49 demand the use of corporal punishment, 18 want to ban Harry Potter books from the school library, 26 want to ban any books that mention the Trail of Tears, 62 believe that parents should be allowed to overrule a physician’s decision that a child with a concussion should refrain from participating in sports, 87 oppose keeping their kids out of school when they have the flu, 9 believe that a child with cancer might be contagious, 29 believe that [kids who are vaccinated should be the ones who quarantine](#), 72 support “tracking” in all subject areas, 32 believe [students should not be taught how to spell the word “isolation” and “quarantine”](#) because they are too “scary of words,” 104 don’t like the school neighborhood boundaries, 38 don’t like the bus routes, 71 parents want a vegan-only lunchroom, 4 demand same-sex classrooms, 5 oppose textbooks and want their children only reading from the Bible, and it can go on and on. The vast majority of parents do not agree with any of these things, and yet, parental rights extremists would insist schools must accommodate [their views], even if they are completely false, undermine the purpose of education, threaten the safety of children, or promote discrimination.*

*How can a school operate if every parent can decide every aspect of the education of their child, as some are demanding? [It cannot](#).*

Unfortunately, this seems to be the point of some of the proponents of such an approach: the destruction or “[organized abandonment](#)” of public schools.

### **Public Education Is a Children’s Issue, and An Issue of Importance to Our Democracy**

Furthermore, public school is not about the parents. All policies and attention should, instead, be focused on students.

As we explained in our [opposition letter to the Scott/Foxx bill](#):

*Education is fundamentally a children’s issue. It is about their learning, understanding, development, and future. But instead of putting children at the center of attention and focus, this legislation would redirect immense time, energy, money, and judicial action toward the so-called rights of individual parents.*



In addition, we must understand that public education is also about liberty and our democracy. It should be about bringing people together toward “commonality” and “citizenship” rather than the factionalizing or atomization of society.

Benjamin R. Barber explains:

*The lesson seems obvious: We cannot do without public schools. A nation of fractious individuals schooled in avoidance ceases to be a nation. A democracy of consumers focused on their private interests ceases to be a democracy. A community of multicultural fragments celebrating only difference ceases to be a community. A republic of privately schooled narcissists blind to what they share ceases to have res public and hence is no longer a republic.*

*Public education is redundant: To be civilized is to understand the nature of commonality, to be learned is to grasp the rights and responsibilities of liberty, to be educated is to comprehend the meaning of citizenship. If liberal education is education in the arts of liberty, then there can be no liberal education without public education.*

### **Short of Death, the Legislation Guts Health Care Protections for Children**

In addition, the most overlooked problem with the “parental rights without limitations” movement is that it creates a whole range of unsafe risks for the health of children. The language in S. 3571/H.R. 6934 says that parents have “fundamental rights” that are “without limitation” and include the ability “[t]o access and review all medical records of the child and to make and consent to all physical and mental health care decisions for the child.”

ADF is in favor of this and [argues](#):

- *Every mother or father should be able to determine the medical treatment that their child receives.*
- *Any medical professional, school official, and/or government employee should obtain written parental consent to treat a child’s mental or physical health.*

Again, “every mother or father”? What if the parents disagree? Sadly, we already know that disagreement among parents often results in non-action, which for kids means the denial or withholding of health care and treatment.

The bill fails to recognize that some parents make terrible decisions. Back to Godwin’s warning:

*Thinking only in terms of how the best parents conduct themselves is a mistake; it is also necessary to account for what the worst parents can get away with.[3]*

On this point, the intersection of child abuse and child health comes into play. If a child victim of physical, mental, or sexual abuse by a parent wishes to see a doctor, nurse, or other health care professional for their care, under this bill's language, the parent could: (1) deny consent for the child to be seen; and, (2) if they somehow were able to be seen, the abusing parent would have immediate access to the child's medical records.

This is tragic and unacceptable, as it puts children in enormous and continued danger.

Moreover, the intersection between education and child health also comes into play. First, the language would seem to overturn all state laws with respect to vaccine requirements to attend school, etc. We are already seeing outbreaks of vaccine-preventable diseases like measles due to state-based vaccine consent and opt-out laws and vaccine misinformation.



**CBS News** @CBSNews · 9h

**Measles** was officially declared eradicated in the U.S. more than 20 years ago, but new outbreaks of the disease are popping up — and experts say declining vaccination rates are jeopardizing herd immunity and increasing the risk. [cbsn.ws/490IFyW](https://www.cbsnews.com/news/measles-outbreaks/)



In addition, [our letter points out](#):

*The “make and consent” language in the bill is also disturbing in that parents are not medical experts and also often unavailable to give “consent” for an athletic trainer, coach, or nurse who sees and treats children all the time for issues related to illness, sports injuries, etc. Would health care providers be unable to provide a health 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 “consent”? A similar law in Florida has led to a denial of students access to vision or hearing tests, Band-Aids, or even ice packs after a fall or sprain at school or at a sporting event.*

Therefore, consent laws often result in a lack of treatment for kids. In fact, the bill would also seem to undercut all state “mature minor” laws across the country, which as [our letter explains](#):

*...allow adolescents to seek out and confide in their physician or other medical providers when seeking medical information regarding sexual health and education, pregnancy, STD prevention, family planning, substance use disorder treatment, mental health and suicide prevention counseling, and again, by younger children in matters related to physical or sexual abuse by adults. Parents would direct such “care” under the bill, and again, could deny such care in cases where they are engaging in sexual abuse of a child.*

The FFCC letter adds:

*With potentially tragic consequences, S. 3571/H.R. 6934 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, infectious diseases, or emergency care services without first obtaining parental consent.*

And finally, the language that gives parents the unfettered authority to “make” health care decisions is also troublesome. For example, this language would violate the fundamental rights of adolescents who do not consent or agree with medical treatment concerning their own bodies and health care, such as “conversion therapy,” “rebirthing therapy,” female genital mutilation, seclusion and restraint, or other harmful or detrimental services.

In these situations, the sweeping language for parents to “make” all health care decisions for children would override the professional judgment of health care professionals and preclude any government action to protect the health care of minors whose health might be threatened short of “a parental action or decision that would result in serious physical injury to the child or that would end life.”

For example, as I [wrote](#) in a newsletter explaining some of the problems associated with Florida’s parental rights law, this type of legislative language undermines the ability of public health officials to stop situations, such as when “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.'"



**NBC News** @NBCNews · May 21, 2019

**Parents** are poisoning their children with **bleach** in pursuit of a false-hope "cure" to **autism**. These moms are trying to stop it. [nbcnews.to/2VTqp8C](https://nbcnews.to/2VTqp8C) (1/3) - @brandyzadrozny



From nbcnews.com



**VICE News** @VICENews · Sep 18, 2023

A pastor who briefly shot to fame for rapping in support of Ted Cruz is now selling industrial-strength **bleach** tablets to **parents** and has admitted that many of his customers are using the product to treat **autism** in their children.



From vice.com

And last, as our letter highlights:

*The legislation would also seem to gut other laws or court rulings that have protected the "best interest" of the child, such as instances when parents have medically neglected their*

*child by withholding cancer treatment, blood transfusions, or medically abused them by forcing the sterilization or institutionalization of children.*

## Call Your Member of Congress and Senators

At First Focus on Children, we firmly believe that every decision, every law, and every public policy that impacts children should promote their best interests, well-being, lived experiences, and voice. The Scott/Foxx bill fails that test.

Consequently, I urge readers of this newsletter to contact their Member of Congress and senators and urge their opposition to:

- [S. 3571](#) by Sen. Tim Scott and [H.R. 6934](#) by Rep. Virginia Foxx, the “Families’ Rights and Responsibilities Act”; and,
- [H.J.Res. 38](#) by Rep. Debbie Lesko (R-AZ), which is a proposed amendment to the Constitution on parental rights.



\*\*\*\*\*

*If you would like to help ensure that children and their needs, concerns, and best interests are no longer ignored by policymakers, please join First Focus Campaign for Children as an “[Ambassador for Children](#)” or become a paid subscriber to help us continue our work. We do not have dedicated financial support for this work and rely on readers like yourself to support it. Thank you!*

## Endnotes

[1] *Troxel v. Granville*, 530 U.S. 57 (2000)

[2] Godwin, S. (2015). Against Parental Rights. *Columbia Human Rights Law Review*, 47(1), 1-83.

[3] *Ibid.*

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By Bruce Lesley · Launched 2 years ago

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Charlotte Pendragon Feb 12, 2024

...

Children always get the bad end of the deal when lawmakers get involved. Thank you for shining a light on these issues. Knowledge is power.

On another subject - my legal married name is Lessley. My husband's family were from Oklahoma before moving to California during the dust bowl. We still have Lessley family in Oklahoma.

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Rhymes With "Brass Seagull" Mar 9, 2024 Edited

...

Well-said. This bill is even worse than I thought! The reactionaries really seem to want to drag America back to the dark ages in so many ways.

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