



January 12, 2024

The Honorable Tim Scott  
United States Senate  
Washington, D.C. 20510

The Honorable Virginia Foxx  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Senator Scott and Representative Foxx:

On behalf of First Focus Campaign for Children (FFCC), a bipartisan children's advocacy organization dedicated to making children and families a priority in federal budget and policy decisions, I am writing today to express our strong opposition to S. 3571/H.R. 6934, the "Families' Rights and Responsibilities Act."

By definition, parents and families are fundamental to the upbringing, education, and well-being of children. This is a given. Furthermore, as the legislation's findings highlight, the U.S. Supreme Court has repeatedly upheld parents' rights in various decisions. For instance, in *Troxel v. Granville*, 530 U.S. 57 (2000), the Supreme Court concluded "the interest of parents" to be "perhaps the oldest of the fundamental liberty interests recognized by this Court."

The role of parents in the protection and well-being of children is vital and an important part of FFCC's advocacy. In fact, it is why FFCC has supported numerous policies and pieces of legislation that respect and support the critically important role of parents, including the Child Tax Credit, WIC, Healthy Families Act, Preventing Maternal Deaths Act, Family-Based Care Services Act, the Homeless Children and Youth Act, Trauma-Informed Care for Children and Families Act, and other legislation that encourages parental involvement in schools or that violate the rights and best interests of both parents and their children.

Tragically, S. 3571/H.R. 6934 fails to recognize that both parental and child rights must be supported. For children to thrive, they often need support **by** parents or government, but they sometimes also need protection **from** parents or government. 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. For these reasons, we must strongly oppose S. 3571/H.R. 6934.

### **S. 3571/H.R. 6934 Would Limit the Protection of Children from Abuse and Neglect**

First, while most parents deserve deference in the upbringing of their children and support when they are struggling to fulfill parenting duties, some parents are unable to live up to the responsibilities and duties of parenting. Sadly, some parents are violent, criminal, unfit, and a danger to children.

In cases where parents commit neglect or physical, emotional, or sexual abuse upon their children or put children in harm's way, there is a critical role for society to respect the fundamental human rights of children and to step in and protect them from danger and harm. As Justice Wiley B. Rutledge in *Prince v. Massachusetts*, 321 U.S. 158 (1944):

*It is the interest of youth itself, and of the whole community, that children be both safeguarded from abuses and given opportunities for growth into free and independent well-developed men and citizens.*

The sweeping language in S. 3571/H.R. 6934, grants parents “fundamental rights” that are “without limitation” for education, moral or religious upbringing, and the health of children and allows acts except those that would result in “serious physical injury to the child or that would end life.” Thus, 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.

Child abuse and domestic violence can take many forms and the clear evidence shows that the trauma from physical, emotional, or sexual abuse and abject neglect can be life-long and passed from one generation to the next. Granting constitutional protections to parents to take any actions against children short of “serious physical injury” or death will have tragic consequences, as some children will be left in horribly abusive and unsafe situations.

In fact, with respect to cases of emotional or sexual abuse, neglect, and physical abuse, S. 3571/H.R. 6934 would put parental rights ahead of protecting children would and roll back more than a century of protections that have been put into place for them. Tragically, kids could, once again, be treated as the mere property of their parents.

As author Barbara Bennett Woodhouse explains in her book *Hidden in Plain Sight*:

*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.<sup>1</sup>*

We should not return to those days.

Yale Law School’s Samantha Godwin adds:

*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.<sup>2</sup>*

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<sup>1</sup> Woodhouse, B. B. (2008). *Hidden in Plain Sight: The Tragedy of Children's Rights from Ben Franklin to Lionel Tate*. Princeton University Press.

<sup>2</sup> Godwin, S. (2015). Against Parental Rights. *Columbia Human Rights Law Review*, 47(1), 1-83.

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.”

Unfortunately, S. 3571/H.R. 6934 does that. The legislation includes explicit language in which an abusive or destructive parent could use this legislation to claim parental rights and legal protections from government intervention, such as that by the police, child protective services, or the courts, to protect children from harm.

In Sec. 3 and 4, the bill imposes “limits on government interference” that would limit “any action that directly or indirectly constrains, inhibits, curtails, or denies the rights of parents” or that assesses “criminal, civil, or administrative penalties or damages” 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.” In Sec. 6, the language says the Act would apply to “each Federal law, and the implementation of any such law, whether statutory or otherwise, and whether adopted before or after the date of enactment of this Act.”

Thus, S. 3571/H.R. 6934 would have the effect of changing the standards and protections in laws relating to child abuse, child trafficking, etc. and explicitly gives “any parent” the ability to use the Act as “a defense in an action in a Federal or State court or before an administrative tribunal and obtain appropriate relief against a government” for taking actions to protect children from harm.

In an award-winning series by the *Miami Herald*, reporters found that changes to the law 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 oversight and protection of children from dangerous parents.<sup>3</sup>

We strongly oppose language that could put children at increased risk for physical, mental, and sexual abuse and harm.

### **S. 3571/H.R. 6934 Would Create Chaos and Lawsuits in Public Schools and Harm Students**

In addition, while we strongly support parental and community engagement in education through PTAs, advisory committees, and communities in schools, a detrimental consequence of S. 3571/H.R. 6934 is that it could potentially result in a flood of litigation initiated by individual parents, at taxpayers’ expense, against anyone working with children, including early childhood educators, teachers, librarians, counselors, social workers, coaches, and nurses, or between parents with opposing values.

The language grants a “right to direct education,” but similar language has been used in some states to promote book bans, speech codes, the whitewashing of history and science, and other types of censorship that a single parent might desire to impose upon the entire school.

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<sup>3</sup> Miller, C. M., & Burch, A. D. (2014, Mar. 16). *Preserving Families but Losing Children*. Retrieved from Miami Herald: <https://media.miamiherald.com/static/media/projects/2014/innocents-lost/stories/overview/>.

Consequently, a single disgruntled parent 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 or even the other parent of that child. Education decisions and disputes would have to be litigated by the courts as “parental rights” cases rather than by communities and parents within the schools themselves. This would be an outright disaster for our nation’s education system and children would be the biggest losers.

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.

### **S. 3571/H.R. 6934 Would Threaten the Health of Children**

Furthermore, S. 3571/H.R. 6934 would open up an array of dangerous possibilities with respect to children’s health. The language in Sec. 4 states that parents have “fundamental rights” and “without limitation” that 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.”

Beginning with the language relating to medical records, if a child were to talk to a doctor, nurse, or other health provider about physical, mental, or sexual abuse by a parent, that parent would have immediate access to their medical records with no limitation under this legislation. Even worse, under this language, a parent sexually abusing their child could refuse consent to have their child even see a doctor. That is a tragedy and puts children in enormous danger.

The legislation’s language claiming that parents have the fundamental right to “make and consent to all physical and mental health care decisions for the child” is also dangerous in a number of ways. Again, the vast majority of parents, children, and their doctors work together toward a common goal of protecting and improving the health of children.

However, there are important instances in which parents are not available to “make and consent” to care, the parents do not agree on health care options, or parents are denying care or taking action in a manner that is detrimental to the health, well-being, and interests of a child. On this point, adolescents have their own fundamental rights and agency which means that their decisions, access to care, privacy, and confidentiality should also be respected and considered.

For example, the language in S. 3571/H.R. 6934 would appear to overturn all state laws with respect to vaccine requirements to attend school. There are already measles and mumps outbreaks in this country due to “parental rights” exemptions from critically important vaccinations that protect the health of children and the community at-large, including other children who may have an immunosuppressed medical condition. Under the language in S. 3571/H.R. 6934, current vaccination laws could be gutted and the health of children threatened.

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.<sup>4</sup> This is ludicrous and potentially dangerous.

The legislation also calls into question the circumstances facing children when parents disagree. What happens if they all are not on the same page about medical decisions? What about the authority of step-parents to make time-sensitive decisions since they are not recognized as having “exclusive right and authority” under the bill? In such cases, the denial of care is the likely default, which could impose enormous harm to children.

The bill would also undercut “mature minor” laws across this country that 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.

While parent and adolescent communication on health care issues should most often be encouraged, confidentiality and privacy are critically important to adolescents in some circumstances. As Abigail English and Dr. Carol Ford explain in *The Journal of Pediatrics*:

*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.<sup>5</sup>*

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.<sup>6</sup>*

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.

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<sup>4</sup> Goldstein, D. (2024, Jan. 10). *In Florida, New School Laws Have an Unintended Consequence: Bureaucracy*. Retrieved from New York Times: <https://www.nytimes.com/2024/01/10/us/florida-education-schools-laws.html>.

<sup>5</sup> English, A., & Ford, C. A. (2018, Aug.). Adolescent Health, Confidentiality in Healthcare, and Communication with Parents. *Journal of Pediatrics*, 199, 11-13.

<sup>6</sup> *Ibid.*

As Trish Neely with the League of Women Voters of Florida said with respect to similar language being considered in her state:

*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. The ones that don't probably have good reason. Not all parents deserve parenthood, nor can you legislate that.*<sup>7</sup>

The language giving parents the authority to “make” all medical decisions would also seem to gut the rights of adolescents to provide informed consent for themselves or to refuse medical treatment with respect to their own bodies and health care, such as “conversion therapy,” “rebirthing therapy,” female genital mutilation, seclusion and restraint, or other harmful or detrimental services.

Frankly, most parents are not medical experts and sometimes buy into social media “cures” or “treatments” that are anything but cures and treatments. For example, according to *NBC News*, parents across the country bought into an array of false and dangerous treatments for autism that include “industrial bleach. . . , turpentine or their children’s own urine as the secret miracle drug to reversing autism.”<sup>8</sup>

In Florida, the *New York Times* reports that a Florida man and his three sons running a “business masquerading as a church” sold over \$1 million of a toxic bleach solution called “Miracle Mineral Solution” as a “religious sacrament and ‘miracle’ cure for COVID-19, cancer, autism, Alzheimer’s disease and more.”<sup>9</sup>

The language in S. 3571/H.R. 6934 makes such so-called “care,” even if harmful, unwanted, or toxic, a fundamental right of parents to use short of a “parental action that would result in serious physical injury to the child or that would end life.”

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

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<sup>7</sup> Dailey, R. (2021, Mar. 3). *Florida Legislature: 'Parent's Bill of Rights' related to children's education, health care advance*. Retrieved from Daytona Beach News-Journal: <https://www.news-journalonline.com/story/news/2021/03/03/florida-legislature-parents-bill-rights-related-childrens-education-health-care-advance-politics/6903737002/>.

<sup>8</sup> Zadrozny, B. (2019, May 21). *Parents are poisoning their children with bleach to 'cure' autism. These moms are trying to stop it*. Retrieved from NBC News: <https://www.nbcnews.com/tech/internet/moms-go-undercover-fight-fake-autism-cures-private-facebook-groups-n1007871>.

<sup>9</sup> Morales, C. (2021, Apr. 25). *\$1 Million in Toxic Bleach Sold as 'Miracle' Cure, Officials Say*. Retrieved from New York Times: <https://www.nytimes.com/2021/04/25/us/miracle-bleach-cure-covid-19.html>.

withholding cancer treatment, blood transfusions, or medically abused them by forcing the sterilization or institutionalization of children.<sup>10,11</sup>

Finally, federal law and regulations provide for extra precautions and protections related to medical research in children (the “Common Rule”). In such cases, a capable child “must actively show his or her willingness to participate in the research, rather than just complying with directions to participate and not resisting in any way.” The language in S. 3571/H.R. 6934 would threaten to undermine all of these current legal protections that promote the “best interest” and voice of children in their own care and treatment.

### **S. 3571/H.R. 6934 Undermines Child Rights, Protections, and Voice: It Should Be Rejected**

Parents are the guardians and not the owners of children.

Unfortunately, S. 3571/H.R. 6934 denies children their humanity, and instead, treats children as passive objects under the near-absolute authority of parents. Children have fundamental rights that would be eliminated by this proposal. They deserve more than just to be protected from parental decisions that would result in “serious physical injury” or “end life.”

Justice Abe Fortas wrote in *Tinker v. Des Moines School Dist.*, 393 U.S. 503 (1969):

*It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.*

A few years later, Justice Harry Blackmun added in *Planned Parenthood of Central Missouri v. Danforth* 428 U.S. 52 (1976):

*Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights.*

Unfortunately, the bill fails to recognize the rights of children, respect their voice, or even consider what is in their best interest is so pervasive that kids are not even listened to on issues that exclusively impact them, such as child abuse and neglect, child trafficking, education, and teenage pregnancy. S. 3571/H.R. 6934 embodies this tragic problem and fails children.

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<sup>10</sup> Wolf, C. (2018, Feb. 19). *In Idaho, medical-care exemptions for faith healing come under fire*. Retrieved from Washington Post: [https://www.washingtonpost.com/national/in-idaho-medical-care-exemptions-for-faith-healing-come-under-fire/2018/02/19/18ef29f0-11b5-11e8-8ea1-c1d91fcec3fe\\_story.html](https://www.washingtonpost.com/national/in-idaho-medical-care-exemptions-for-faith-healing-come-under-fire/2018/02/19/18ef29f0-11b5-11e8-8ea1-c1d91fcec3fe_story.html); Burke, M. (2019, May 9). *Judge orders that Florida 3-*

*year-old with cancer receive chemotherapy over parents' objections*. Retrieved from NBC News:

<https://www.nbcnews.com/health/health-news/judge-orders-florida-3-year-old-cancer-receive-chemotherapy-over-n1003856>; Wilson, J. (2016, Apr. 13). *Letting them die: parents refuse medical help for children in the name of Christ*. Retrieved from The Guardian: <https://www.theguardian.com/us-news/2016/apr/13/followers-of-christ-idaho-religious-sect-child-mortality-refusing-medical-help>; Volokh, E. (2014, Apr. 18). *Sterilization of the 'intellectually disabled'*. Retrieved from Washington Post: <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/04/18/sterilization-of-the-intellectually-disabled/>.

<sup>11</sup> Ironically, the bill would seem to further instances of gender surgeries that many conservatives have sought to limit.

The fact is that violence, abuse, injustice, and discrimination against children in families, schools, prisons, and institutions can best be significantly reduced if children's voices are heard and their rights are protected. The consequence of the silencing or dismissal of the voices and agency of children about the harm they experience and their needs has the effect of protecting the abusers, which sadly includes parents, government, and private institutions, rather than the children.

In *Trovel v. Gramville*, 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.*

If policymakers are to take actions that impact children, those actions should be in the children's "best interest," to protect them from harm, and, at the very least, to do no harm. Unfortunately, S. 3571/H.R. 6934 fails to, as Justice Stevens says, properly balance the equation of interests at stake in decisions impacting children, undermines the fundamental rights, protections, and voice of children, and would be quite harmful.

Policymakers should reject philosophies that treat children as the property of parents or that assume children lack independent reason, agency, or understanding of their own "best interests." The law should balance the interests of parents (who have a developed and demonstrated relationship with a child), the state's *parens patriae* role that should be focused on the protection and "best interests" of the child, and the child's own expressed interests and needs.

In fact, parents, the state, and children should all strive for improvements in the lives of children, as they are all of our future.

Consequently, we strongly oppose S. 3571/H.R. 6934 and urge you to consider the fact that the lives of children are best served when parents, government, and children themselves are working together – rather than at odds – toward the common goal of improving the lives and well-being of children. By failing to understand these basic tenets of child development, the so-called "Families' Rights and Responsibilities Act" includes a number of provisions that threaten the safety, education, health, and rights of children.

Thank you for your consideration.

Sincerely



Bruce Lesley  
President

xc: The Honorable James Lankford  
The Honorable Kevin Cramer  
The Honorable John Barrasso  
The Honorable Pete Ricketts  
The Honorable John Kennedy  
The Honorable Marco Rubio  
The Honorable Randy Weber, Sr.  
The Honorable Jeff Duncan  
The Honorable John Rose  
The Honorable Mary Miller  
The Honorable Gus Bilirakis  
The Honorable Clay Higgins  
The Honorable Tony Gonzales  
The Honorable Jake LaTurner  
The Honorable Byron Donalds  
The Honorable Nancy Mace  
The Honorable Lance Gooden