

Protecting Children by Empowering Parents



A Parents Guide to **PARENTAL RIGHTS** **IN FLORIDA**



ParentalRightsFL.org

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INTRODUCTION

It is a fundamental right of parents to direct the upbringing, education, and care of their minor children.

WHY DO WE NEED A “PARENT’S BILL OF RIGHTS” IN FLORIDA?

Parents come in all varieties. You do not have to be a lawyer to find out if your rights are being infringed upon. Your rights as a parent should be easy enough for any to understand and protect.

Currently, Florida parental rights statutes are scattered throughout Florida law making identifying our parental rights in the statutes extremely complicated. They also don't provide comprehensive guidelines for agencies.

This confusion for parents and governmental agencies results in undue infringement upon the rights of parents. Passing the “Parent’s Bill of Rights” will consolidate current parental rights laws into one comprehensive statute providing clear and concise guidelines for Florida citizens and government agencies. **3**

PARENTAL RIGHTS: THE BASICS

The interest of parents in the care, custody, and control of their children is recognized as a fundamental liberty protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.¹

This is based in part upon the fundamental right of privacy from interference in making important decisions relating to things such as marriage, family relationships, child rearing and education.²

As stated by the United States Supreme Court:

“The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.”³

Additionally, the Florida Supreme Court has also recognized the fundamental rights of parents’ in determining the care and upbringing of their children⁴ and that these rights may not be intruded upon absent a compelling state interest.⁵

#WeTheFLParents

PARENTAL RIGHTS: THE BASICS *(cont'd)*

According to the Florida Supreme Court, when analyzing a statute that infringes on the fundamental right of privacy, the applicable standard of review requires that the statute survive the highest level of scrutiny:

“The right of privacy is a fundamental right which we believe demands the compelling state interest standard. This test shifts the burden of proof to the state to justify an intrusion on privacy. The burden can be met by demonstrating that the challenged regulation serves a compelling state interest and accomplishes its goal through the use of the least intrusive means.”⁶



WHAT ARE YOUR RIGHTS?

We have compiled a list of “Parental Rights” to help you to understand what your rights are as a parent.

This list has been compiled using existing rights understood to be guaranteed to a parent so that all parents can easily know and understand their rights. Most of these rights are codified in state and federal law and acknowledged the courts.⁷

The term “parent” as used in this list of rights, means a person who has legal custody of a minor child as a natural or adoptive parent or a legal guardian.⁸

A parent of a minor child in Florida has inalienable rights that are more comprehensive than those listed here, unless such rights have been legally waived or terminated.

This summary list of rights does not cover all rights accorded to a parent of a minor child in Florida, and keep in mind that laws of every state may be complicated and are typically subject to qualifications, but these are some of your basic rights.

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INFRINGEMENT OF YOUR RIGHTS

You have the fundamental right, as a parent, to direct the upbringing, education, health care and mental health care of your child.

According to a publication from the Cornell Law School,

“fundamental rights are a group of rights that have been recognized by the Supreme Court as requiring a high degree of protection from government encroachment. These rights are specifically identified in the Constitution (especially in the Bill of Rights), or have been found under Due Process. Laws encroaching on a fundamental rights generally must pass strict scrutiny to be upheld as constitutional.”⁹

Due Process simply means that “all levels of American government must operate within the law (“legality”) and provide fair procedures.”¹⁰

As a parent, the state **may not** infringe on your fundamental rights as a parent to direct the upbringing, education, health care, and mental health of your minor child without demonstrating:

1. that such action is reasonable and necessary to achieve a compelling state interest, and
2. that such action is narrowly tailored, and is not otherwise served by a less restrictive means.

EDUCATION -

As a Florida parent you have...

- A. The right to direct the education and care of your minor child.
- B. The right to direct the upbringing and the moral or religious training of your minor child.
- C. The right to apply to enroll your minor child in a public school or, as an alternative to public education, a private school, including a religious school, a home education program, or other available options, as authorized by law.
- D. The right to access and review all school records relating to your child.
- E. The right to access and review all medical records of your minor child, unless prohibited by law or if you are the subject of an investigation of a crime committed against your minor child, and a law enforcement agency or official requests that the information not be released.
- F. The right to consent in writing before a biometric scan of your minor child is made, shared, or stored. This includes the right to opt out of any district-level data collection relating to your minor child not required by law.

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As a Florida parent you have...

- G. The right to learn about your child's course of study, including the source of any supplemental education materials. This includes the right to inspect school district instructional materials.
- H. The right to object to instructional materials and other materials used in the classroom. Such objections may be based on beliefs regarding morality, sex, religion, or the belief that such materials are harmful.
- I. The right to withdraw your minor child from any portion of the school district's required comprehensive health education that relates to sex education, instruction in AIDS education, or any instruction regarding sexuality if the parent provides a written objection to his or her minor child's participation. This includes the right to be notified in advance of such course content so that you may withdraw your minor child from those portions of the course.



HEALTHCARE -

As a Florida parent you have...

- A. The right to make health care decisions for your minor child, unless otherwise prohibited by law.
- B. The right to make medical decisions to address any needs of your minor child. This is a matter between you, your minor child, and a competent health care professional chosen by you.
- C. The right to exempt your minor child from immunizations for religious reasons.
- D. The right to help your minor child in a time of crisis before the initiation of an involuntary psychiatric examination unless there is substantial likelihood that without care or treatment your minor child will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.
- E. The right to be notified immediately if your minor child is removed from school, school transportation, or a school-sponsored activity and taken to a receiving facility for an involuntary examination.

HEALTHCARE -

As a Florida parent you have...

- F. The right to refuse to give your minor child psychotropic/psychiatric drugs as a requirement for attendance or participation in public school services.
- G. The right to refuse psychological screening of your minor child.
- H. The right to opt your minor child out of any services offered under the school health services program by submitting a request in writing.
- I. The right to withdraw your minor child from any portion of the school district's required comprehensive health education that relates to sex education, instruction in AIDS education, or any instruction regarding sexuality if the parent provides a written objection to his or her minor child's participation. This includes the right to be notified in advance of such course content so that you may withdraw your minor child from those portions of the course.
- J. The right to learn about the nature and purpose of clubs and activities offered at your minor child's school, including both those that are extracurricular or part of the school curriculum.

Why do we need a “PARENT’S BILL OF RIGHTS” in Florida?

- Your rights as a parent should be simple to understand and protect.
- Statutes outlining parental rights are currently scattered confusingly throughout Florida law.
- They do not provide clear, comprehensive guidelines to agencies.
- This confusion for parents and governmental agencies results in undue infringement upon the rights of parents.
- Passing the “Parent’s Bill of Rights” will consolidate current parental rights laws into one comprehensive statute providing clear and concise guidelines for Florida citizens and government agencies.

THE SOLUTION

1. A grassroots movement of Florida citizens embracing their fundamental rights as parents and actively engaging in the Florida legislative process and working with government to secure those rights.
2. Florida Legislators passing this common-sense law that acknowledges the fundamental rights and responsibilities of parents to raise their children and outlines the role government plays in helping protect the rights of these parents and children.



**FLORIDA PARENTS -
it's time to make history!**

**Your involvement brings hope
to Florida and its families.**

REFERENCES

1. Santosky v. Kramer, 455 U.S. 745, 748 and 753 (1982)(holding the fundamental liberty interest of natural parents in the care custody, and management of their child is protected by the Fourteenth Amendment, and termination of any parental rights requires due process proceedings); Troxel v. Granville, 530 U.S. 57, 66 (2000) (holding there is a fundamental right under the Fourteenth Amendment for parents to oversee the care, custody, and control of their children).
2. Carey v. Population Svcs. Int'l, 431 US 678, 684-685 (1977) (recognizing the right of privacy in personal decisions relating to marriage, family relationships, child rearing, and education); See Wisconsin v. Yoder, 406, U.S. 205, 232-33 (1972)(holding a state law requiring that children attend school past eight grade violates the parents' constitutional right to direct the religious upbringing of their children); See Parham v. J.R., 442 U.S. 584, 602 (1979) (recognizing the presumption that parents act in their children's best interest); Meyer v. Nebraska, 262 U.S. 390, 400-01 (1923) (affirming that the Constitution protects the preferences of the parent in education over those of the state); Pierce v. Society of Sisters, 268 U.S. 510, 534-35 (1925)(recognizing the right of parents to direct the upbringing of and education of their children).
3. Wisconsin v. Yoder, 406, U.S. 205, 232 (1972).
4. Beagle v. Beagle, 678 So.2d 1271, 1272 (Fla. 1996) (holding a state law violated a parent's constitutional right to privacy by imposing grandparent visitation rights over objection of the parent without evidence of harm to the child or other compelling state interest).
5. Id. See, e.g., Shevin v. Byron, Harless, Schaffer, Reid & Assocs., Inc., 379 So.2d 633, 637 (Fla. 1980) and Belair v. Drew, 776 So.2d 1105, 1107 (Fla. 5th DCA 2001)
6. Winfield v. Division of Pari-Mutuel Wagering, Dept. of Bus. Regulation, 477 So.2d 544, 547 (Fla. 1985).

REFERENCES *(cont'd)*

7. Section 1002.20, F.S.; Section 1002.20(2)(b) and (6), F.S.; Section 1002.20(13), F.S.; Section 1002.20(6), F.S.; Section 1003.4285(1) b, F.S.; Subpart B., ch. 1009, F.S.; Section 1003.4282(2), F.S.; Section 1002.20, F.S.; Section 1002.20(14)-(16), F.S.; See, e.g., s. 1002.20(3), F.S.; Section 1008.25(2), (4), (5), and (7), F.S.; Section 1002.22(2)(e), F.S; Section 14 1002.3105 (4)(a), F.S.; Section 1006.283(2)(b)11., F.S.; Sections 1003.3101 and 1012.42(2), F.S.; Sections 1002.38(2) and (3)(a)1, F.S.; Section 1002.39(5)(a)1., F.S.; Section 1002.395, F.S.; Section 1006.07(2), F.S.; Section 1002.23(5), F.S.; Section 1002.23(6), F.S.; Sections 1002.20(3) (a)-(b) and 1003.22(5)(a), F.S.; Sections 1002.20(3)(c) and 1003.47, F.S.; Sections 1002.20(3)(d) and 1003.42(3), F.S.; Sections 1002.20(12) and 1003.44(1) F.S.; Section 1003.421(4), F.S.; Section 1006.28(2)(a)2., F.S.; Section 1006.29(2), F.S.; Section 1002.222(1)(a), F.S. The law defines biometric information as information collected from the electronic measurement or evaluation of any physical or behavioral characteristics that may be personally identifiable, including characteristics of fingerprints, hands, eyes, and the voice. Thus, agencies or institutions may not use fingerprint scans, palm scans, retina or iris scans, face geometry scans, or voice prints. Id.; Section 1008.22, F.S.; Section 1008.25(8), F.S.; Section 1006.0625, F.S.; Section 381.0056, F.S.
8. Section 39.01(56), F.S.; Chapters 1000-1013, F.S., are referred to as the K-20 Education Code; Section 1000.21(5), F.S.
9. https://www.law.cornell.edu/wex/fundamental_right
10. https://www.law.cornell.edu/wex/Due_Process



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WHO WE ARE

We are an advancing grassroots movement of Florida citizen parents. We believe that parents have the fundamental right to direct the upbringing, education, and care of their children. We acknowledge that the family is the heart of our state and nation. When the fundamental rights of parents are respected and families are valued, the result is strengthened communities. We are calling for and working with Florida Legislators to pass common-sense laws that respect the fundamental rights of parents.

Why ParentalRightsFL.org?

Children need to be raised and represented by parents who love them, not by disconnected government officials. When it comes to raising children, parents are better than the government.

CONTACT US

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