

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0822.01 Jane Ritter x4342

HOUSE BILL 20-1063

HOUSE SPONSORSHIP

Geitner,

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING FUNDAMENTAL FAMILY RIGHTS IN COLORADO.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill defines parental rights as the right to direct the upbringing, education, and care of a parent's child and establishes parental rights as a fundamental right in Colorado that is subject to strict scrutiny.

1 *Be it enacted by the General Assembly of the State of Colorado:*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 **SECTION 1. Legislative declaration.** (1) The general assembly
2 finds that:

3 (a) For decades, the United States supreme court has affirmed
4 parental rights as a cornerstone of American jurisprudence. Notable cases
5 include:

6 (I) *Troxel v. Granville*, 530 U.S. 57 (2000), which brought
7 together both sides of the ideological spectrum with both Justices Thomas
8 and Ginsburg voting in favor of parental rights. In the *Troxel* decision,
9 Justice O'Connor wrote that "the interest of parents in the care, custody,
10 and control of their children is perhaps the oldest of the fundamental
11 liberty interests recognized by this Court."

12 (II) *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), which
13 affirmed parental rights in a unanimous decision, stating that "the child
14 is not the mere creature of the State; those who nurture him and direct his
15 destiny have the right, coupled with the high duty, to recognize and
16 prepare him for additional obligations."

17 (III) *Meyer v. State of Nebraska*, 262 U.S. 390 (1923), which
18 ruled in favor of parental rights against Nebraska state law. The court
19 explained in its opinion that "liberty means more than freedom from
20 bodily restraint. It also includes the right of a teacher to teach German to
21 a student and the right of parents to control the upbringing of their child
22 as they see fit."

23 (IV) *Carey v. Population Services International*, 431 U.S. 678
24 (1977); *Parham v. J.R.*, 442 U.S. 584 (1979); *Santosky v. Kramer*, 455
25 U.S. 745 (1982); *City of Akron v. Akron Center for Reproductive Health*,
26 462 U.S. 416 (1983); *Lehr v. Robertson*, 463 U.S. 248 (1983); and
27 *Michael H. v. Gerald D.*, 491 U.S. 110 (1989).

1 (2) The general assembly further finds that:

2 (a) African-American and Latino parents have their parental rights
3 taken away at a disproportionate rate when compared to other parents,
4 which is evidenced by the disproportionate number of African-American
5 and Latino children in foster care in the United States;

6 (b) Although African-American and Latino children comprise
7 28.6% of the total child population, they comprise an estimated 36.5% of
8 children in foster care; and

9 (c) The United States government accountability office has
10 attributed this disproportionate ratio, in part, to racial bias.

11 (3) Therefore, the general assembly declares it is of utmost
12 importance to codify in statute that parental rights are considered a
13 fundamental right for all parents in the state of Colorado.

14 **SECTION 2.** In Colorado Revised Statutes, **add** 13-1-139 as
15 follows:

16 **13-1-139. Parental rights - protection - definitions -**
17 **applicability.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
18 OTHERWISE REQUIRES:

19 (a) "BURDEN" MEANS ANY ACTION BY A PERSON OR ENTITY THAT
20 DIRECTLY OR INDIRECTLY CONSTRAINS, INHIBITS, CURTAILS, DENIES, OR
21 COMPELS ANY ACTION BY ANOTHER PERSON.

22 (b) "PARENTAL RIGHTS" MEANS THE RIGHT OF A PARENT TO DIRECT
23 THE UPBRINGING, EDUCATION, AND CARE OF THE PARENT'S CHILD.

24 (2) (a) THE LIBERTY OF A PARENT TO EXERCISE HIS OR HER
25 PARENTAL RIGHTS IS A FUNDAMENTAL RIGHT IN THE STATE OF COLORADO.

26 (b) THE STATE, AND ANY AGENCY OF THE STATE, SHALL NOT PLACE
27 A BURDEN ON A PARENT'S PARENTAL RIGHTS WITHOUT DEMONSTRATING

1 THAT THE BURDEN, EITHER FROM A LAW, RULE, OR OTHER GOVERNMENTAL
2 ACTION, AS APPLIED TO THE PARENT AND CHILD:

3 (I) IS NECESSARY TO ACHIEVE A COMPELLING GOVERNMENTAL
4 INTEREST;

5 (II) IS NARROWLY TAILORED TO ACHIEVE THE GOVERNMENTAL
6 INTEREST; AND

7 (III) USES THE LEAST RESTRICTIVE MEANS TO ACHIEVE THE
8 GOVERNMENTAL INTEREST.

9 **SECTION 3. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly (August
12 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
13 referendum petition is filed pursuant to section 1 (3) of article V of the
14 state constitution against this act or an item, section, or part of this act
15 within such period, then the act, item, section, or part will not take effect
16 unless approved by the people at the general election to be held in
17 November 2020 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.