

TESTIMONY OF DIANE L. REDLEAF, J.D.
Legal Consultant to Let Grow
in support of
H.B. 22-1090 An Act Concerning Reasonable Independence for Children
In the Public and Behavioral Health and Human Services Committee of the
Colorado House of Representatives Public Hearing, February 11, 2020

My name is Diane Redleaf. I am a lawyer and the legal consultant to Let Grow. I am a graduate of Stanford Law School, where I was an editor of the [Stanford Law Review](#). I have written numerous reports and articles on the topic of allowing children to be alone, including this [2015 report](#), this [Imprint article](#), “The Biden Administration’s Focus Should Be Removing Poverty From Neglect,” and [the book](#), *They Took the Kids Last Night: How the Child Protection System Puts Children at Risk* (ABC Clio, 2018). I am also a member of the American Bar Association Center for Children and the Law Steering Committee for its National Alliance for Parent Representation, and I founded a national bipartisan policy advocacy group called [United Family Advocates](#).

Why H.B.22-1090 Will Benefit Colorado Children and Families

As Let Grow’s Legal Consultant, I advocate for laws, regulations, and policies that give children reasonable independence and I work on educating parents and professionals about the family rights under laws that affect the ability of families to allow such independence.

Prior to working for Let Grow, I founded and ran a legal services office in Chicago, the Family Defense Center, from 2005 until 2017. One of my cases illustrates why it is so important, I believe, to clarify neglect laws so as to allow childhood independence. Natasha Felix is a low-income Puerto Rican mother and home health care worker with three children, ages 11, 9 and 5. One day, she let her three children play in a park next door to her home where she could see them out of the window. Ms. Felix was targeted in a neglect hotline call from a stranger for inadequate supervision, even though she could see the children playing outside her window. Nevertheless, Ms. Felix was registered as a child neglecter and her name remained in the child abuse register (which is like the Sex Offense Registry, but not public) for Illinois for over two years while my office and a major Chicago law firm brought her case up to the Illinois’ First District Appellate Court. During this time, Ms. Felix’s children became so fearful of further state intervention in their family life that they stopped playing outside and the oldest stopped even taking out the trash to the back yard. See “[Mother Cleared of Neglect for Letting Kids Play Outside](#),” (Chicago CBS coverage of Natasha Felix story, 12/16/15).

The Definition of “Neglect” Should Include Serious Harm, not Cases Where Children Were Not Endangered, Data Shows

Nationally, the rate of child neglect allegations is going up while actual findings of neglect are going down. According to the most recent [HHS Child Maltreatment Report](#) (for 2020), over 7,000,000 children (approximately 10% of all children) were reported to child protection authorities but the numbers of substantiated cases are dropping. So too are the rates of serious physical and sexual abuse cases. That’s good news, but the bad news is that amorphous neglect claims have not dropped. Instead, they make up an increasing proportion of child protective services caseloads.

That national overall trend actually exaggerated in Colorado's statistics in the category of lack of supervision. According to data from 2019-20, one half of all the allegations that get made in Colorado are unfounded neglect charges. But in the category of lack of supervision is especially disproportionate—allegations were made in 3854 cases, but 3169 were unfounded—that's an **82% unsubstantiation** rate. So, narrowing this category to the real cases of neglect when children are left alone in dangerous situations will serve everyone's interests—especially the children's but also the state's, the families and the taxpayers.

Three States Have Already Passed Reasonable Independence for Children Laws and Two Other States Currently Have Proposed Legislation Pending, With Strong Bipartisan Support.

Let Grow's work on legislation began with the passage of reasonable childhood independence legislation in Utah in 2018. There, the bill passed unanimously. A follow up study by Dr. Peter Gray reported in *Psychology Today* reported that parents in Utah express relief at having the rights afforded in that law. It's simple and straightforward. At the same time, have been no claims of children being more endangered there than elsewhere because of this law change. Indeed, as we look around the country, we see no evidence that states that are strict in limiting children's ability to be alone are any safer than states with tighter neglect laws.

In 2021, both Texas, through H.B. 567, and Oklahoma, through H.B. 2565, passed reasonable independence laws by overwhelming margins. Like the proposal presented previously in Colorado's House in 2020, these measures had broad bipartisan support. Both the Texas and Oklahoma gained traction because of the understanding that these measures address the needs of low-income families who need flexibility and support, not punitive investigations of their parenting when they are making the best judgments they can make on behalf of their kids. *See, e.g.*

https://www.muskogeephoenix.com/opinion/editorials/other-views-poverty-does-not-equal-neglect/article_587d9e0b-89f6-51e0-ae7-474fca460483.html and

<https://www.oklahoman.com/story/opinion/2021/03/26/opinion-bipartisan-bid-save-childhood-oklahoma/6986563002/>

Bills are also currently pending in Nebraska, LB 1000, with bipartisan sponsorship (Rep. Ben Hansen, Republican is joined by Reps. Terrell McKinney and Justin Wayne, both Democrats) and in South Carolina, S.277, (Sens. Wes Climer and Greg Hembree, both Republicans; while House Democratic sponsors have been identified but have not yet introduced the bill). The reception of this legislation on both sides of the aisle has been consistently strong, because allowing kids independence and supporting families is a non-partisan issue--a liberty issue, an economic justice issue and a racial and social justice issue all at the same time.

The Language of H.B.22-1090 Incorporates a Legal Standard That Makes Sense—Since It is Already the Law for *Foster* Parents

In one critical respect, the language of H.B.22-1090 is different from most of the other “reasonable childhood independence” proposals, though it overlaps with the law passed in Oklahoma. In the negotiations that led to the redrafted bill in 2020, Colorado DHS stakeholders proposed that the law should embrace the “reasonable and prudent parent” standard that is already in place in Colorado (and nationally) that liberalizes the decisions that foster parents can make on behalf of their foster children.

We agree that this consistency makes sense. Parents are the ones who know their child best and they should not have their judgments second guessed by caseworkers as to whether their children can and cannot do. Yet, foster parents had long complained that they were not allowed to let their foster children engage in normal childhood activities. The same deference the law gives to foster parents makes sense for ALL parents.

The proposed legislation recognizes that letting a child be outside alone or home alone does not constitute neglect unless it is unsafe according to a reasonable and prudent parent. Without this additional clarity in the law, mandated child abuse reporters often decide to call the hotline even when there are not certain there is a genuine concern, setting in motion a potential investigation that can be upsetting to families at best, and sometimes lead to significant trauma and fear. Parents need to have the leeway to be able to judge when their children are mature and capable of such activities as walking to school, playing outside, or being home alone. Parents from all different walks of life and communities, and especially communities that are under-resourced and stressed, need to be able to decide for themselves when their children can do things on their own. That includes playing unsupervised with other children in mixed aged groups, walking to grandma's for afterschool, or playing in the woods near the house without being stopped by governmental authorities.

When people can't tell what is lawful or unlawful this creates a chilling effect on reasonable decisions and on reasonable parenting.

Conclusion. HB22-1090 presents a modest but important potential change in Colorado law. The proposal does not change the duties of mandated reporters to call in suspicions of abuse or neglect. Nor does it change investigation processes. It doesn't change the removal standards nor sanction abusive or neglectful actions that harm children. What it does is allow child protection professionals to apply their judgment as to the specific circumstances of specific children who may be engaged in independent activities. It puts the right to make decisions back with the parent unless the State can show they were not reasonable and prudent in assessing actual danger to the child. It clarifies the common-sense idea our laws need to draw lines between good and bad parenting, and independence, when children are ready, needs to be within the lines that the law recognizes as part of good parenting. Because it is good policy for Colorado children and families, I hope you will pass HB 22-1090.

Thank you for your consideration of this testimony.

Yours truly,



Diane L. Redleaf
Legal Consultant to Let Grow
diane@letgrow.org
www.familydefenseconsulting.com
708-927-8169

Hello. Thank you Madame Chair, committee members, and bill sponsors for the opportunity to provide written testimony today. My name is Heather Thompson and I am the Co-Deputy Director of Elephant Circle, a birth justice organization. I am also representing the Colorado Coalition to Protect Children and Family Rights. I have a PhD in Molecular and Cellular Biology and have worked in maternal-child health in varying capacities for more than 20 years. I live in District 4 here in Denver.

I am testifying in strong support of House Bill 1090.

For the past nine years, Elephant Circle has been providing legal, emotional, and social support to families affected by Child Protective Services. Through this work, we have learned that policy around child welfare is often an insular process driven by agents of the system itself. We have found that families rarely have a voice. We are here today to raise family voices.

At Elephant Circle, we believe it's good policy to support families. The current law goes too far and sweeps in too many families. Currently in the state of Colorado, more than 80% of reports made to child welfare are not substantiated.

I want to be clear that this bill does not loosen the rules in a way that will promote increased levels of child abuse or neglect. The State will still have the power to investigate and intervene when abuse or neglect is present.

But, by creating clear boundaries for appropriate independence for children, it helps to reduce the number of unsubstantiated and unnecessary cases.. This is essential for two reasons.

One, in our current cultural climate, nearly all of a child's time is monitored or structured by adults. This is harming children. The data are compelling and clear: this loss of independence is increasing self-harm and decreasing self-reliance in our youth. HB 1090 will combat some of the fear and stigma parents have about providing their children appropriate independence – which is desperately needed for the health and wellbeing of the next generation.

Two, it will help investigators weed out reports that do not warrant investigation. Investigations are harmful to families. The mental impact of child welfare investigation – substantiated or not – is serious. Most of our clients report anxiety, depression, and even PTSD after an investigation.

Finally, I want to explicitly address the issue that came up most often when I talked about this bill with my friends and colleagues: how do we define reasonable? Can we leave such a definition up to parents? How does one create legal action with such a nebulous word?

But we already use nebulous concepts to discern a good parent from a parent requiring state intervention. The current term in statute is "proper parent" and I would argue that "reasonable independence" is an even better concept than "proper parenting." Updating this concept will provide guidance to case workers, prosecutors, and families while reducing harmful and unnecessary interventions and increasing the health and wellbeing of our kids.

Thank you for your time. I urge a YES vote on HB 1090.

House Public & Behavioral Health & Human Services
02/11/2022 Upon Adjournment
HB22-1090 Reasonable Independence For Children
Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
Vanessa Peoples For Self	<p>My name is Vanessa Peoples, I am from Aurora Colorado and I am here today in support of House Bill 1090, Reasonable Independence for Children. July 13, 2017, is a day that still haunts me and no one should have to go through what I experienced over a well-child check. During the summer of 2017, I met up with my cousin at a park, and one of my sons wandered off. I immediately went to look for him, and by the time I found him, a lady had already called the police and I was issued a ticket. A few weeks later on July 13th, a social worker came by my house to check on my children, I was in the basement at the time and did not hear the door. The social worker called the police, who entered my house through my unlocked front door. Things escalated quickly, and I was treated unfairly and inhumanely--to the point that I settled a lawsuit and had several news articles written about what occurred that day. In the process of checking on my kids' well-being, my children had to experience something that they should have never experienced. I am here in support of HB 1090 because parents should not have to worry about having the police called on them for losing sight of their kids for a few seconds. I ask for your yes vote. Thank you.</p>