

IN THE HOUSE OF REPRESENTATIVES

HOUSE JOINT MEMORIAL NO. 1

BY EDUCATION COMMITTEE

A JOINT MEMORIAL

1  
2 TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS  
3 ASSEMBLED, TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF  
4 IDAHO IN THE CONGRESS OF THE UNITED STATES AND TO THE LEGISLATURES OF THE  
5 SEVERAL STATES.

6 We, your Memorialists, the House of Representatives and the Senate of  
7 the State of Idaho assembled in the First Regular Session of the Sixty-first  
8 Idaho Legislature, do hereby respectfully represent that:

9 WHEREAS, the right of parents to direct the upbringing and education of  
10 their children is a fundamental right protected by the Constitution of the  
11 United States and the State of Idaho; and

12 WHEREAS, our nation has historically relied first and foremost on par-  
13 ents to meet the real and constant needs of children; and

14 WHEREAS, the interests of children are best served when parents are free  
15 to make child rearing decisions about education, religion and other areas of  
16 a child's life without state interference; and

17 WHEREAS, the United States Supreme Court in *Wisconsin v. Yoder* (1972),  
18 has held that "This primary role of the parents in the upbringing of their  
19 children is now established beyond debate as an enduring American tradi-  
20 tion"; and

21 WHEREAS, however, the United States Supreme Court in *Troxel v.*  
22 *Granville* (2000), produced six different opinions on the nature and enforce-  
23 ability of parental rights under the United States Constitution; and

24 WHEREAS, this decision has created confusion and ambiguity about the  
25 fundamental nature of parental rights in the laws and society of the several  
26 states; and

27 WHEREAS, the United Nations Convention on the Rights of the Child has  
28 been proposed and may soon be considered for ratification by the United  
29 States Senate, which would drastically alter this fundamental right of par-  
30 ents to direct the upbringing of their children; and

31 WHEREAS, this convention has already been acceded to by 194 nations  
32 worldwide and has already been cited by United States courts as "customary  
33 international law"; and

34 WHEREAS, international influence is being exerted on the United States  
35 Supreme Court, as demonstrated in *Roper v. Simmons* (2005), where "the court  
36 referred to the laws of other countries and to the international authorities  
37 as instructive for its interpretation ..." of the United States Constitu-  
38 tion; and

39 WHEREAS, Senator James DeMint of the state of South Carolina and Rep-  
40 resentative Peter Hoekstra of the state of Michigan have introduced in the  
41 United States Congress an amendment to the United States Constitution to  
42 prevent erosion of the enduring American tradition of treating parental  
43 rights as fundamental rights;

1 SECTION ONE. The liberty of parents to direct the upbringing and educa-  
2 tion of their children is a fundamental right.

3 SECTION TWO. Neither the United States nor any state shall infringe upon  
4 this right without demonstrating that its governmental interest as ap-  
5 plied to the person is of the highest order and not otherwise served.

6 SECTION THREE. No treaty may be adopted nor shall any source of interna-  
7 tional law be employed to supersede, modify, interpret or apply to the  
8 rights guaranteed by this article; and

9 WHEREAS, this amendment will add explicit text to the Constitution of  
10 the United States to protect in perpetuity the rights of parents as they are  
11 now enjoyed, without substantive change to current state or federal laws re-  
12 specting these rights; and

13 WHEREAS, such enumeration of these rights in the text of the Constitu-  
14 tion will preserve them from being infringed upon by the shifting ideologies  
15 and interpretations of the United States Supreme Court; and

16 WHEREAS, such enumeration of these rights in the text of the Constitu-  
17 tion will preserve them from being infringed upon by treaty or international  
18 law.

19 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Ses-  
20 sion of the Sixty-first Idaho Legislature, the House of Representatives and  
21 the Senate concurring therein, that we hereby affirm the Parental Rights  
22 Amendment to the United States Constitution as presented to the United  
23 States Congress by Senator James DeMint of the state of South Carolina and  
24 Representative Peter Hoekstra of the state of Michigan and as referenced  
25 herein.

26 BE IT FURTHER RESOLVED that the Legislature of the state of Idaho urges  
27 the members of the United States Congress to propose the Parental Rights  
28 Amendment to the states for ratification.

29 BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representa-  
30 tives be, and she is hereby authorized and directed to forward a copy of this  
31 Memorial to the President of the Senate and the Speaker of the House of Repre-  
32 sentatives of Congress, the congressional delegation representing the State  
33 of Idaho in the Congress of the United States and to the clerk of the legisla-  
34 tive body of each of the several states of the United States.