LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature First Regular Session - 2015

Moved by Davis

Seconded by McKenzie

IN THE SENATE
SENATE AMENDMENT TO H.B. NO. 113

AMENDMENT TO THE BILL

On page 1 of the printed bill, delete lines 6 through 20, and insert:

"SECTION 1. That Chapter 10, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1010, Idaho Code, and to read as follows:

32-1010. INTENT OF THE LEGISLATURE -- PARENTAL RIGHTS. (1) The interests and role of parents in the care, custody and control of their children are both implicit in the concept of ordered liberty and deeply rooted in our nation's history and tradition. They are also among the unalienable rights retained by the people under the ninth amendment to the constitution of the United States.

(2) The interests of the parents includes the high duty and right to nurture and direct their children's destiny, including their upbringing and education.

(3) The state of Idaho has independent authority to protect its parents' fundamental right to nurture and direct their children's destiny, upbringing and education.

(4) The protections and rights recognized in sections 32-1011 through 32-1013, Idaho Code, are rooted in the due process of law guaranteed pursuant to section 13, article I, of the constitution of the state of Idaho.

(5) Governmental efforts that restrict or interfere with these fundamental rights are only permitted if that restriction or interference satisfies the strict scrutiny standard provided in section 32-1013, Idaho Code.

(6) Nothing in this act shall be construed as altering the established presumption in favor of the constitutionality of statutes and regulations.

SECTION 2. That Chapter 10, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1011, Idaho Code, and to read as follows:

32-1011. PARENTAL RIGHT TO THE CARE, CUSTODY AND CONTROL OF CHILDREN. Parents who have legal custody of any minor child or children have the fundamental right to make decisions concerning their care, custody and control.

SECTION 3. That Chapter 10, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1012, Idaho Code, and to read as follows:

32-1012. PARENTAL RIGHT TO DIRECT THE EDUCATION OF CHILDREN. Parents who have legal custody of any minor child or children have the fundamental right and duty to make decisions concerning their education, including the right to cause the child to be educated in any manner authorized under section 33-202, Idaho Code, and section 9, article IX, of the constitution of the state of Idaho.

SECTION 4. That Chapter 10, Title 32, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 32-1013, Idaho Code, and to read as follows:

32-1013. INTERFERENCE WITH FUNDAMENTAL PARENTAL RIGHTS RESTRICTED. (1) Neither the state of Idaho, nor any political subdivision thereof, may violate a parent's fundamental and established rights protected by this act, and any restriction of or interference with such rights shall not be upheld unless it demonstrates by clear and convincing evidence that the restriction or interference is both:

(a) Essential to further a compelling governmental interest; and

(b) The least restrictive means available for the furthering of that compelling governmental interest.

(2) The foregoing principles apply to any interference whether now existing or hereafter enacted.

(3) Nothing in this act shall be construed as invalidating the provisions of the child protective act in chapter 16, title 16, Idaho Code, or modify the burden of proof at any stage of proceedings under the child protective act.

(4) When a parent's fundamental rights protected by this act are violated, a parent may assert that violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against the governmental entity.

(5) If a parent prevails in a civil action against the state, or a political subdivision thereof, as provided in subsection (4) of this section, the parent is entitled to reasonable attorney's fees and costs.

SECTION 5. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.".

CORRECTION TO TITLE

On page 1, delete lines 2 through 4, and insert:

"RELATING TO PARENT AND CHILD; AMENDING CHAPTER 10, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1010, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT; AMENDING CHAPTER 10, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1011, IDAHO CODE, TO PROVIDE THE PARENTAL RIGHT TO DIRECT THE CARE, CUSTODY AND CONTROL OF CHILDREN; AMENDING CHAPTER 10, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1012, IDAHO CODE, TO PROVIDE THE PARENTAL RIGHT TO DIRECT THE EDUCATION OF CHILDREN; AMENDING CHAPTER 10, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1013, IDAHO CODE, TO RESTRICT INTERFERENCE WITH FUNDAMENTAL

PARENTAL RIGHTS, TO PROVIDE THAT THIS ACT SHALL NOT INVALIDATE THE CHILD PROTECTIVE ACT, TO AUTHORIZE A CLAIM, DEFENSE AND APPROPRIATE RELIEF AND TO PROVIDE FOR ATTORNEY'S FEES; AND PROVIDING SEVERABILITY.".