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"Parents rights" advocates have scored a victory now that Idaho has passed House Bill 113. But what does it mean for Idaho's children?



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On April 2, Governor C.L. "Butch" Otter signed into law [House Bill 113](#) known as the "parents rights" bill. It will become law on July 1 of this year.

The bill was one of many similar pieces of legislation being lobbied around the country by the Home School Legal Defense Association, whose [mission](#) is to "preserve and advance the fundamental, God-given, constitutional right of parents and others legally responsible for their children to direct their education."

According to the HSLDA, the law doesn't give parents more rights, it just codifies them, a necessary step say proponents who are convinced that the courts are beginning to strip them away. In announcing its victory, HSLDA [stated](#) on its website: "You don't have any more rights now than you did before. But the rights you already have by virtue of being a parent are now far safer."

The lobbying group is particularly worried that government is interfering with parents' ability to make decisions about their children's education. According to HSLDA's website [parentalrights.org](#), "It is no accident, no coincidence. And it's not just your imagination. There really is a steady trend by the government and the courts to remove the influence of parents from the public schools."

So it's no surprise that the Idaho parents rights bill specifically mentions education as an area of childrearing in which parents are entitled to "fundamental rights." (The law does not specifically call out any other area of childrearing but instead vaguely refers to the "care, custody and control" of children.)

In addition, the law states that parents who feel their rights have been violated can sue the appropriate governmental entity. In other words, if parents don't like what their public school is teaching, and the school doesn't make changes as directed by parents, mothers and fathers can take the school district to court. Furthermore, the law states that parents who prevail in court are entitled to "attorney's fees and costs." (It's an ironic twist that Idaho lawmakers who are so aggrieved by what they perceive the courts to be doing are simultaneously turning to the courts as a remedy.)

The Child-Friendly Faith Project got involved as soon as we found out the bill had been filed. We could see that much of it was largely unnecessary, since numerous court decisions had affirmed that parents held fundamental rights. Still, there was still great cause for concern, because as proponents were fretting about protections for *parents*, few lawmakers seemed concerned about maintaining or improving protections for their *offspring*, especially children whose parents were abusing or neglecting them.

So we set up [#ProjectIdaho](#) and encouraged child advocates to join the campaign and testify against the bill. We were extremely pleased to be joined by child advocates within and outside of the state of Idaho,

including the [Interfaith Alliance](#), the [Interfaith Alliance of Idaho](#), [Rev. Dr. C. Welton Gaddy](#), [Professor Marci A. Hamilton](#), and others.

We weren't the bill's only critics. Some worried that allowing parents broad rights over education would create chaos in Idaho's public schools. Currently, school administrators and teachers welcome parental involvement, but now instead of sitting down with them and discussing concerns, the law gives parents a cause of action in the courts.

One editorial that appeared on the Idaho website [MagicValley.com](#) [stated](#) that the bill would "create an unworkable, a la carte education system where parents could suddenly ban the basic principles of biology, literature and U.S. history." One poll [showed](#) that more than 55 percent of Idahoans opposed the bill.

Yet, in spite of this opposition, the Idaho House of Representatives [passed](#) the bill 37 to 31.

When the bill got to the Senate, lawmakers were prepared to apply considerable more scrutiny. Even Republican members of the Senate State Affairs Committee acknowledged that the language of the bill had serious problems. For instance, the bill aimed to offer the same "fundamental rights" to legal guardians, a provision that conflicted with current Idaho statutes. The main point I made in my [testimony](#) before the Senate panel was that the bill offered no exceptions for parents who were abusive or neglectful.

This time, criticism of the bill did not fall on deaf ears, and the Senate panel gave the bill a near complete makeover. We feel that the law that was passed is a better piece of legislation than what was originally passed by the House. However, we still have concerns about how it will impact the lives of children for these reasons:

1) *The parents rights law grants "fundamental rights" to parents who don't deserve them.* The bill states that actions taken under the law may not conflict with already-existing statutes that aim to protect children from maltreatment. This wouldn't be a problem if Idaho's laws did, in fact, protect children from harm. But they don't, because four state statutes provide exemptions for parents who [withhold needed medical care](#) from their children as long as the parents claim they were attempting to treat them with only prayer or other "spiritual means."

2) *The parents rights law will interfere with children's right to a proper education.* School districts, which have no resources to fight lawsuits, may choose to change curriculum, library materials, and hiring practices in a haphazardly fashion just to avoid being sued by disgruntled parents. Also, parents might be permitted to remove their children from classes they find objectionable, which could lead to educational neglect.

3) *Professionals who are charged with protecting children from harm will be intimidated into not doing their jobs.* The threat of parents suing school districts, child protective services, county health clinics, and other entities they feel have infringed on their fundamental rights is likely to have a chilling effect on the reporting of abuse or neglect. In addition, we fear that judges and juries will fail to properly protect children from unfit parents if they claim they acted according to their "fundamental rights."

Some Idaho lawmakers have been equally alarmed. [Senator Cherie Buckner-Webb](#) wrote in an email that she agrees that parents have inalienable rights when it comes to their children. However, she described the bill as containing "vague language" and one that "creates a number of alarming uncertainties." She added,

Instead of truly safeguarding the rights of parents, I fear they would spur countless lawsuits and a legal free-for-all, ultimately forcing our judiciary to interpret our legislative intent. I

voted no on this legislation.

The parents rights law is nowhere as dangerous as it was when it was first being considered by the Idaho House, but what the state has now passed still does not bode well for children.

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I never realized that a child is capable of remembering so well and of waiting so patiently.
—Janusz Korczak

The Child-Friendly Faith Project: Supporting faith communities in their efforts to protect and nurture children

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