

1                   **JOINT RESOLUTION ON PARENTAL RIGHTS AND**  
2                                   **FUNDAMENTAL LIBERTIES**

3                                   2012 GENERAL SESSION

4                                   STATE OF UTAH

5                   **Chief Sponsor: Christopher N. Herrod**

6                   Senate Sponsor: \_\_\_\_\_

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8   **LONG TITLE**

9   **General Description:**

10           This joint resolution of the Legislature urges Congress to propose the Parental Rights  
11 Amendment to the states for ratification.

12   **Highlighted Provisions:**

13           This resolution:

14           ▶ urges the United States Congress to propose the Parental Rights Amendment to the  
15 United States Constitution for ratification by the states.

16   **Special Clauses:**

17           None

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19   *Be it resolved by the Legislature of the state of Utah:*

20           WHEREAS, the right of parents to direct the upbringing and education of their children  
21 is a fundamental right protected by the constitutions of the United States and the state of Utah;

22           WHEREAS, this nation has historically relied first and foremost on parents to meet the  
23 real and constant needs of children;

24           WHEREAS, the interests of children are best served when parents are free to make  
25 childrearing decisions about education, religion, and other areas of a child's life without state  
26 interference;

27           WHEREAS, the United States Supreme Court, in *Wisconsin v. Yoder*, 406 U.S. 205



28 (1972), has held that "This primary role of the parents in the upbringing of their children is now  
29 established beyond debate as an enduring American tradition.";

30 WHEREAS, however, the United States Supreme Court, in *Troxel v. Granville*, 530  
31 U.S. 57 (2000), produced six different opinions on the nature and enforceability of parental  
32 rights under the United States Constitution;

33 WHEREAS, the *Troxel* decision has created confusion and ambiguity regarding the  
34 fundamental nature of parental rights in the laws and society of the several states;

35 WHEREAS, the United States Convention on the Rights of the Child has been  
36 proposed and may soon be considered for ratification by the United States Senate, which could  
37 drastically alter this fundamental right of parents to direct the upbringing of their children;

38 WHEREAS, this convention has already been acceded to by 192 nations worldwide,  
39 and has already been cited by United States courts as an example of "customary international  
40 laws";

41 WHEREAS, international influence is being exerted on the United States Supreme  
42 Court, as demonstrated in *Roper v. Simmons*, 543 U.S. 551 (2005), where "the Court has  
43 referred to the laws of other countries and to the international authorities as instructive for its  
44 interpretation" of the United States Constitution;

45 WHEREAS, Senator James DeMint of the state of South Carolina, and Representative  
46 Peter Hoekstra of the state of Michigan have introduced in the United States Congress an  
47 amendment to the United States Constitution to prevent erosion of the enduring American  
48 tradition of treating parental rights as fundamental rights, as follows:

49 "SECTION ONE: The liberty of parents to direct the upbringing and education of their  
50 children is a fundamental right.

51 SECTION TWO: Neither the United States nor any State shall infringe upon this right  
52 without demonstrating that its governmental interest as applied to the person is of the highest  
53 order and not otherwise served.

54 SECTION THREE: No treaty may be adopted nor shall any source of international law  
55 be employed to supercede, modify, interpret, or apply to the rights guaranteed by this article";

56 WHEREAS, this amendment will add explicit text to the United States Constitution to  
57 protect, in perpetuity, the rights of parents as they are now enjoyed, without substantive change  
58 to current state or federal laws respecting these rights;

59           WHEREAS, the enumeration of these rights in the text of the constitution will preserve  
60 them from being infringed upon by the shifting ideologies and interpretations of the United  
61 States Supreme Court; and

62           WHEREAS, the enumeration of these rights in the text of the constitution will preserve  
63 them from being infringed upon by treaty or international law:

64           NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah  
65 supports the Parental Rights Amendment to the United States Constitution, as presented to the  
66 United States Congress by Senator James DeMint of the state of South Carolina and  
67 Representative Peter Hoekstra of the state of Michigan, and as referenced herein.

68           BE IT FURTHER RESOLVED that the Legislature of the state of Utah urges the  
69 members of the United States Congress to propose the Parental Rights Amendment to the  
70 states for ratification.

71           BE IT FURTHER RESOLVED that a copy of this resolution be sent to each member of  
72 the United States Senate, to each member of the United States House of Representatives, and to  
73 the clerk or secretary of the legislative bodies of each of the several states.

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**Legislative Review Note**  
**as of 3-2-12 9:10 AM**

**Office of Legislative Research and General Counsel**