



TESTIMONY OF NATALIE L. DECKER  
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Regarding Senate Bill 15-077 Concerning the Creation of a Parent's Bill of Rights

March 17, 2015

My name is Natalie L. Decker. I have been licensed to practice law in the state of Colorado since 1997. I am an attorney with Alliance Defending Freedom (ADF), an alliance-building, non-profit legal organization that promotes religious liberty, sanctity of life, and marriage and the family.

Most of my work with ADF is to advocate for the right of people to freely live out their faith. I am currently involved in a number of lawsuits in federal and state courts concerning religious liberties and the conscience rights of private business owners and religious organizations to be free from being forced by the government to violate their sincerely held religious beliefs.

I am privileged to testify today on Senate Bill 15-077 on behalf of Colorado Family Action (CFA). The mission of CFA is to strengthen families by applying founding principles and faith to policy and culture. CFA seeks to establish through citizen advocacy and enactment of Colorado law a safe, prosperous and wholesome climate for families. CFA's public policy decisions are based on the principles of life, marriage, parental authority, constitutional government, and religious liberty.

On behalf of CFA, I urge the adoption of this bill. This bill is not only important, but *necessary*, to protect Colorado parents and children.

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Parents have a fundamental, constitutional right, as well as the responsibility, to direct and control the upbringing and education of their children. The United States Supreme Court has repeatedly recognized the importance of the rights of parents.<sup>1</sup>

Unfortunately, parental rights are increasingly under attack. Despite the fact that the Supreme Court has held that there is a presumption that fit parents act in their children's best interest,<sup>2</sup> parental rights are under attack from the government and from people and organizations who profess to know better than parents what is best for children.

SB 15-077 seeks to safeguard the rights of parents and their children from unwarranted government intrusion. This bill clearly establishes that the government shall not infringe upon the fundamental rights of parents to direct the upbringing, education, and physical and mental health care of their children without demonstrating a compelling interest, *as applied to the child involved*, of the highest order that is narrowly tailored to meet that interest that cannot be accomplished in a less restrictive manner. This standard allows children to be protected from abuse while simultaneously safeguarding the rights of parents from governmental intrusion.

SB 15-077 establishes a bill of rights for Colorado parents relating to the education, health care, and mental health care of their children.

This law expressly recognizes that Colorado parents have the right, among other things, to:

1. Direct the education of their children;
2. Access and review all school records of their children;
3. Direct the moral or religious training of their children;
4. Make health care decisions for their children;
5. Access and review all medical records of their children;
6. Consent in writing *prior to* biometric scans of their children;
7. Consent in writing *prior to* records of their children's blood or DNA is made, shared or stored, in most instances;

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<sup>1</sup> See, e.g., *Meyer v. State of Nebraska*, 262 U.S. 390 , 399 (1923) (14<sup>th</sup> Amendment Due Process Rights includes "the right of the individual to...establish a home and bring up children, to worship God according to the dictates of his own conscience..."); *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925) ("The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."); *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972) ("T[he] primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition."); *Moore v. East Cleveland*, 431 U.S. 494, 503-504(1977) ("Our decisions establish that the Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation's history and tradition. It is through the family that we inculcate and pass down many of our most cherished values, moral and cultural."); *Troxel v. Granville*, 530 U.S. 57, 68 (2000) ("[O]ur constitutional system long ago rejected any notion that a child is the mere creature of the State and, on the contrary, asserted that *parents have the right coupled with the high duty* to recognize and prepare [their children] for additional obligations.") (quoting *Parham v. J.R.*, 442 U.S. 584, 602 (1979)(emphasis added)).

<sup>2</sup> *Troxel*, 530 U.S. at 58.

8. Consent in writing prior to any video or voice recordings are made of their children in most instances; and
9. Be notified promptly if it is suspected that a child has been a victim of a criminal offense.

This bill also requires school districts to develop a policy to promote parental involvement. The policy requires a number of common-sense provisions to enable parents to get the information that they need in order to be able to actively participate in their children's education—something which helps children, parents, and teachers. That is good for Colorado.

SB 15-077 provides that, except as otherwise provided by law and with limited exceptions, no person or entity may provide, solicit, arrange or perform surgical procedures, physical examinations, or prescribe any prescription drugs without first obtaining written parental consent from a parent. Parents need to be aware of their children's medical issues and treatment. Without knowledge of their children's medical issues and any treatment, parents will not have the information that they need to properly evaluate their children's condition and to know when to seek medical attention. Nor will parents be able to provide an accurate medical history if they do seek medical treatment. The lack of information, through no fault of the parents, prevents prompt and appropriate medical intervention by emergency medical professionals responding to potentially life-threatening conditions. Given that parents must approve the distribution of Tylenol, aspirin, sunscreen and other such things prior to their administration, it is nonsensical to suggest that children should be receiving medical care without the knowledge and consent of their parents absent a compelling reason supported by actual evidence, and in many instances it is outright dangerous.

As to the question, which arose during the Senate committee hearing on this bill, of whether health care providers in Colorado are excluding parents while treating Colorado children—they are. Children in Colorado are often told that they can have their parents excluded, and Kaiser Permanente advises children in writing that they have a right to confidential treatment on a variety of topics.<sup>3</sup>

Unfortunately, Kaiser Permanente and other providers are in fact able to provide certain services to Colorado children without their parents' knowledge or consent. Consequently, while this bill is a step in the right direction, we recommend an amendment. *The words "except as otherwise provided by law" should be removed from proposed § 14-16-105.* Failing to remove these words will effectively undermine the intended purpose of this bill because Colorado law *does* permit minors to receive contraception without parental notice and consent,<sup>4</sup> abortions without parental consent (though written notice is required),<sup>5</sup> HIV testing and treatment,<sup>6</sup> and treatment for

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<sup>3</sup> See "*Confidentiality Laws: The Rights of Teens*," provided by Kaiser Permanente to my child, in my presence.

<sup>4</sup> C.R.S. § 13-22-105 ; C.R.S. § 25-6-102

<sup>5</sup> C.R.S. § 12-37.5-104

sexually transmitted infections,<sup>7</sup> drug addictions,<sup>8</sup> alcohol and intoxication.<sup>9</sup> If this language remains in the bill, it is our view that these things may continue to remain available to minors without parental notice or consent.

Parents, not the government or anyone else, know what is best for their children. This is always true absent actual evidence to the contrary.

Senate Bill 15-077 is well-conceived and is drafted pursuant to sound constitutional authority. On behalf of Colorado Family Action, I urge the adoption of this bill.

Thank you again for the privilege of appearing before this Committee on Senate Bill 15-077.

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<sup>6</sup> C.R.S. § 25-4-1405(6)

<sup>7</sup> C.R.S. § 25-4-402(4)

<sup>8</sup> C.R.S. § 13-22-102

<sup>9</sup> C.R.S. § 27-81-109



This summary has health information about your visit. It is intended for your use only. For questions about your visit, please call or e-mail your doctor from kp.org. For questions about copays, please check your Evidence of Coverage or call (303) 338-3800.

Visit Details

Date & Time	Provider	Department	Dept Phone	Center
'2013				

Your Health Measures Recorded During this Visit - Last Recorded

Pulse	Temperature(Src)	Height	Weight
BMI		Oxygen Level	

Health Problems Reviewed

Personal Care Instructions for You

WELL VISIT INFORMATION FOR OLDER TEENS

Your Kaiser Permanente Care Instructions

Confidentiality Laws: The Rights of Teens

We strongly encourage you to talk with your parents about what's going in your life and with your health. However, Colorado law does allow teens, 12 years old and older, to receive some types of health care confidentially. "Confidential" means we can share information with your parents only if you give your permission to do so. You can request confidential care for the following services only:

- Treatment for drug and alcohol concerns.
- Birth control, emergency contraception, and care related to a pregnancy.
- Testing and treatment for sexually transmitted diseases including HIV. Under the age of 16 years parents will be notified if the HIV test is positive.
- Mental health concerns such as depression, anxiety, difficulties with feelings, and stress age 15 years and over. Parents or guardians can be informed if there is a concern that a teen may be suicidal (may harm his or her self) or could harm someone else for example if a teen is having suicidal thoughts.
- If you are a victim of a sexual offense, health care providers must make a reasonable effort to contact your parent or guardian about medical care before examining or treating you (unless it is your parent who is the abuser)

If you would like a confidential visit about any of the above issues you will need to let us know at the start of the visit.

Nutrition and Activity Recommendations