ASPIRE EDUCATION™

In Defense of Illinois Homeschooling Rights

Homeschooling is the fastest-growing form of education in America. There were approximately 3.1 million homeschooled children in America in 2021-2022, and that number has continued to increase. Homeschooling families come from all political stripes and religions, and every homeschool experience is truly personalized and unique. It represents a tremendous commitment by parents – to the enormous benefit of students.

Yet Illinois Democrats have introduced a bill to discourage parents from homeschooling, putting families under the thumb of local public school officials and threatening them with criminal penalties. Illinois House Bill 2827 erodes parents' fundamental rights and personal freedoms. It reduces educational opportunity for students, and further solidifies Illinois' strong stance against educational choice. It carries grave consequences for homeschool families, children with special needs, minorities, children with IEPs, and imposes unfunded mandates on local public schools, district officials, and local law enforcement.

Foundational points:

- The entire bill unconstitutionally encroaches on parents' fundamental rights.
- Our legislators are the People's servants/trustees and have only been given limited authority to establish a Public Education system under Article X of the Illinois Constitution (1970). It does not set public education as the "default" form of education.
- Simply because the People provide limited authority to the State, does NOT mean that parents, the People, have given away their unalienable rights, such as a parent's fundamental right to educate their children, which is a "Private Liberty Interest."
- By choosing to **allow** the public education system to **assist** them in educating their children, parents are merely choosing a "public" education. This in no way means that parents relinquish their unalienable/fundamental right to care for and educate their children. The State cannot assert authority that it does not have.
- This fundamental right is well established by the Supreme Court of the United States (*See *Troxel v. Granville*, 530 U.S. 57 (2000) (excerpts below)).
- In addition to the unconstitutional intrusion, in *People v. Levisen*, 404 Ill. 574 (1950) the Illinois Supreme Court established that if a parent chooses to educate their child at home, then the child is considered to be in "private school" in Illinois.

ASPIRE EDUCATION™

Specific intrusions in HB2827:

- Incorrectly asserts that existing laws are inadequate. Evidence shows that homeschoolers do well academically. Meanwhile, ISBE data shows that only one-third of Illinois public school students are proficient academically and Illinois has very high chronic truancy and absenteeism rates.

- Denies parents due process. Parents are guilty until proven innocent:
  If a family does not file a piece of paper (Homeschool Declaration Form) by a certain date, that family is considered "truant"; it redefines truancy for homeschool families only. While Illinois **public schools** have high truancy and chronic absenteeism rates relative to other states, under this bill homeschool parents would commit truancy when they are actively educating their children, day in and day out, often at levels superior to their local public schools, *simply for not reporting themselves to public school officials*. Parents would face criminal penalties up to and including removal from their family for not filing this paperwork.

  If DCFS simply "has had contact" with a homeschooling child, the agency has the power to investigate if a Homeschool Declaration Form has been filed, "**and any other investigations as needed**" (emphasis added).

- Significant negative impact on special needs children, minority groups, victims of bullying or discrimination, and low income families who cannot afford a traditional private school and whose children do not thrive in a public school setting. Many homeschool parents, especially in urban hubs across Illinois, removed their children from failing public schools in order to provide a safer, more academically satisfying environment. This bill puts those families under the thumb of the exact organization they escaped.

  Important to note that this is even more egregious since the legislature allowed the Invest In Kids Act to sunset. This Act provided scholarship money to minority and low income families to send their kids to the best school for their child. This Act was popular on both sides of the aisle.

- Further impacts resources for special needs children who have an IEP or a 504 plan because the Federal IDEA law applies to public and private schools for families who desire services through their school district, but not to homeschools.

- Allows public school districts to gather and retain medical and private health information “in order to offer homeschooled children in the school district access to school programming, including, but not limited to, dental, vision, and hearing screenings, school newsletters, parent education programs, and field trips.” This is an invasion of privacy.

- Requires homeschool families to comply with all public school health, medical, and immunization reporting requirements if they elect to participate in any public school activities – even if that participation is temporary or ends.

- Changes private school registration with the Illinois State Boar of Education from voluntary to required. This further erodes their autonomy, because ISBE would be able to collect data on private school children, and their families and extend oversight of curricula, teachers, and administrators.

- **Unfunded mandate:**
    - Requires ISBE to create a homeschool registration form; form must be posted online and disseminated to relevant populations across multiple platforms, and would necessitate an awareness campaign and level of education among the population. Who this responsibility falls to remains unclear and unfunded; collected by principals or school districts; staffing, data storage, collection and protection mechanisms need to be established; school districts must provide a report to ISBE each year;
    - school districts can demand to review an “educational portfolio”;
    - DCFS can institute “investigations as needed”;
    - truant officers, regional office of education, or intermediate service centers must send notice to families considered truant;
    - the homeschool form can be expanded by the ISBE at any time through regulation – not legislation.

*** *Troxel v. Granville*, 530 U.S. 57 (2000)**

Justice O’Connor wrote the Majority Opinion:

Pages 65-66, “The liberty interest at issue in this case-the interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by this Court. More than 75 years ago, in *Meyer* v. *Nebraska,* 262 U. S. 390, 399, 401 (1923), we held that the "liberty"

protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to control the education of their own." Two years later, in *Pierce* v. *Society of Sisters,* 268 U. S. 510, 534-535 (1925), we again held that the "liberty of parents and guardians" includes the right "to direct the upbringing and education of children under their control." We explained in *Pierce* that "[t]he 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." *Id.,* at 535. We returned to the subject in *Prince* v. *Massachusetts,* 321 U. S. 158 (1944), and again confirmed that there is a constitutional dimension to the right of parents to direct the upbringing of their children. "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Id.,* at 166."

In subsequent cases also, we have recognized the fundamental right of parents to make decisions concerning the care, custody, and control of their children. See, *e. g., Stanley* v. *Illinois,* 405 U. S. 645, 651 (1972) ("It is plain that the interest of a parent in the companionship, care, custody, and management of his or her children 'come[s] to this Court with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements'" (citation omitted)); *Wisconsin* v. *Yoder,* 406 U. S. 205, 232 (1972) ("The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition"); *Quilloin* v. *Walcott,* 434 U. S. 246, 255 (1978) ("We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected"); *Parham* v. *J. R.,* 442 U. S. 584, 602 (1979) ("Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course"); *Santosky* v. *Kramer,* 455 U. S. 745, 753 (1982) (discussing "[t]he fundamental liberty interest of natural parents in the care, custody, and management of their child"); *Glucksberg, supra,* at 720 ("In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the 'liberty' specially protected by the Due Process Clause includes the righ[t] ... to direct the education and upbringing of one's children" (citing *Meyer* and *Pierce*)). In light of this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children.

Page 68: “As this Court explained in *Parham:*

"[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 generally have the right, coupled with the high duty, to recognize and prepare [their children] for additional obligations .... The law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions. More important, historically it has recognized that natural bonds of affection lead parents to act in the best interests of their children." 442 U. S., at 602 (alteration in original) (internal quotation marks and citations omitted).”