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MODEL POLICY | American Values

FAMILY PRESERVATION AND PROTECTION ACT

PURPOSE OF THIS ACT

This Act protects parents' ability to make reasonable child-rearing decisions by ensuring that age-appropriate independence, educational choices, and ordinary family circumstances are not misclassified as neglect. It clarifies the legal standard for state intervention, limits unnecessary investigations and removals, and ensures that child-welfare resources remain focused on cases involving actual harm or immediate danger, thereby strengthening family autonomy and safeguarding the integrity of the home.

Background

The child protection system was built to rescue children from abuse and serious neglect. That narrow mission justified extraordinary state authority and, when properly exercised, still does. Over time, however, vague statutory standards and increasingly elastic definitions have pushed the system well beyond that original purpose.

Parents now face investigation for decisions that were unremarkable a generation ago: letting children play outside unsupervised, choosing alternative education, declining a recommended vaccine, or refusing to consent to a contested medical procedure. None of these choices, standing alone, demonstrates abuse, yet each has become a potential trigger for state involvement.

This drift has consequences. Families suffer intrusive investigations that ultimately find no wrongdoing. Caseworkers—already carrying heavy caseloads—are required to sort through reports in which children facing genuine danger are mixed with cases involving no imminent risk at all. Over time, the system's credibility suffers when agencies responsible for rescuing abused children spend limited resources policing lawful parenting decisions and difficult but non-dangerous circumstances.

This model policy is intended to refocus child protection on its core mission. It draws clearer boundaries around lawful parental decision-making while preserving—and even strengthening—the state's authority to intervene when children face actual harm or immediate danger.



THE PROBLEM

The data confirms that the nation's child protection system casts an exceptionally wide net. In 2023, child protective services agencies received approximately [4.4 million referrals](#) involving an estimated 7.9 million children. Of those children who were investigated, about 546,000—roughly 7%—were ultimately determined to be victims of maltreatment. Put differently, the vast majority of families reported to CPS undergo investigation without any finding of abuse or neglect.

This scale matters. [Investigation is not a neutral event](#), and the sheer volume of reports ensures that families posing no immediate danger are routinely swept into the system. As a result, children facing genuine risk compete for attention with cases involving no imminent threat.

This overreach does not protect children. [Research examining children on the margin](#) of removal—meaning situations involving no clear or immediate safety threat—finds that placing those children into foster care, rather than allowing them to remain safely at home, is associated with worse long-term outcomes, including higher rates of delinquency, teen motherhood, and lower adult earnings.

Removal and foster care are not benign interventions. [Longitudinal developmental research](#) finds that children placed in foster care face elevated risks of emotional and behavioral problems, even when placement is undertaken for protective reasons. These risks are particularly tragic when removal occurs in the absence of clear or immediate danger.

Vague neglect definitions now reach families who never imagined they could be targeted. The standards should be clear: disagreement with parental judgment is not neglect, and speculative risk is not sufficient. The state must produce legally sufficient evidence of harm or risk. Yet while several states have enacted targeted reforms in discrete areas, no state has adopted a comprehensive statutory framework that clearly delineates protected parental decisions across contexts and limits investigation or removal to cases involving actual harm or immediate danger.

THE SOLUTION

The Family Preservation and Protection Act does not narrow protections for children who face genuine danger. Abuse, sexual exploitation, trafficking, and abandonment remain fully actionable. Emergency removal remains available when a child faces an immediate threat to physical health or safety. Nothing in this Act disturbs that authority.

What the Act does is identify categories of lawful parental conduct that cannot, standing alone, serve as the basis for investigation or removal:

- Homeschooling or alternative education choices
- Economic hardship or temporary housing instability
- A parent's criminal history unrelated to child safety
- Declining immunizations for reasons of conscience
- Permitting age-appropriate childhood independence



- Declining consent to a child’s social or medical gender transition
- Seeking second medical opinions or choosing among lawful treatments

The Act restores a clear standard for state intervention. The question is not whether a caseworker would have made a different parenting choice. The question is whether a child has been harmed or faces immediate danger.

By clarifying the boundary between family autonomy and state authority, this Act protects families from unnecessary intrusion while preserving the state’s responsibility to act decisively when children are truly at risk.

PROPOSED LEGISLATIVE TEXT

SECTION 1. SHORT TITLE.

This Act shall be known and may be cited as the Family Preservation and Protection Act.

SECTION 2. LEGISLATIVE FINDINGS.

The Legislature finds that:

1. Parents and guardians have the primary responsibility and natural authority to direct the upbringing, education, and care of their children.
2. It is presumed to be in the best interest of children to remain in the care of their parents.
3. Teaching children age-appropriate independence promotes healthy development, resilience, maturity, and physical well-being.
4. Governmental intervention into lawful parenting decisions diverts limited public resources from cases involving real danger and infringes on constitutionally protected family integrity.
5. Clarifying the boundary between neglect and appropriate parental discretion strengthens family autonomy, protects lawful parenting choices, and ensures that state agencies accept and prioritize cases involving genuine threats to a child’s safety.

SECTION 3. PURPOSE.

This Act protects parental decision-making regarding age-appropriate independent activities and ensures that neglect findings and child removals are based solely on actual harm or immediate danger, not lawful judgments parents must make every day.

SECTION 4. DEFINITIONS.

(a) “Neglect.”

“Neglect” means an act or failure to act by a person responsible for a child’s care that:



1. evidences a blatant disregard for the foreseeable consequences of the act or omission; and
2. results in harm to the child or creates an immediate danger to the child's physical health or safety.

(b) "Blatant disregard."

"Blatant disregard" means a situation where the real, significant, and imminent risk of harm would be so obvious to a reasonable parent that the parent would not have exposed the child to the danger without taking precautionary measures.

SECTION 5. CLARIFICATION OF NON-NEGLECT.

(a) Independent Activities.

"Neglect" does not include allowing a child—who possesses sufficient maturity, physical ability, and developmental capacity—to engage in independent activities, including but not limited to:

1. traveling to or from school, recreational, religious, or commercial locations by walking, running, bicycling, or public transportation;
2. engaging in outdoor play;
3. remaining at home for a reasonable period of time with the ability to contact a parent or caregiver and with provisions for foreseeable emergencies;
4. remaining briefly in a motor vehicle when temperature conditions do not pose a risk of harm;
5. participating in age-appropriate household responsibilities, errands, or community activities; or
6. engaging in other comparable acts of independence typical for the child's maturity, abilities, or culture.

(b) Protected Parental Decisions.

"Neglect" does not include the following parental conditions, choices, or circumstances, standing alone and without evidence of immediate danger or harm:

1. Homeschooling, alternative education, or lawful school-choice decisions;
2. Economic hardship or temporary housing, food, or utility instability unless the parent refuses offered relief that would eliminate immediate danger;
3. A parent's arrest, charge, or conviction for an offense that does not involve harm to a child or create an immediate danger to the child's physical health or safety;
4. Declining immunizations for reasons of conscience, including religious beliefs;
5. Allowing the child to engage in independent activities as described in subsection (a);



6. A parent's decision to decline or withhold consent for a child's social or medical gender transition, including decisions relating to names, pronouns, clothing, counseling, or medical interventions; or
7. Seeking a second medical opinion or choosing among lawful medical treatments, including declining non-emergency medical procedures.

SECTION 6. LIMITATIONS ON TEMPORARY REMOVAL OF CHILDREN BY THE STATE.

(a) All removals shall be temporary pending adjudication. Any temporary removal by state actors shall be followed by a hearing within 72 hours at which parents have the right to be present and represented by counsel, and at which the state must demonstrate:

1. actual harm or immediate danger attributable to the parent's act or omission;
2. that immediate removal is necessary to protect the child; and
3. that reasonable efforts were made to prevent the need for removal consistent with the child's safety.

(b) No state actor may remove a child from the home, nor may a court authorize such removal, solely on evidence that a parent has engaged in any of the protected decisions or circumstances listed in Section 5.

SECTION 7. LIMITATIONS ON INVESTIGATION AND PETITION FILINGS.

(a) Investigations.

A state agency shall not initiate or continue an investigation solely based on:

1. a child being briefly unsupervised in a manner consistent with Section 5(a);
2. any of the protected conditions, decisions, or circumstances in Section 5(b).

(b) Petitions.

Any petition alleging neglect or seeking state custody must:

1. articulate the specific act or omission creating immediate danger, and
2. affirmatively state that the petition is not based on conditions, decisions, or circumstances enumerated in Section 5.

SECTION 8. STATUTORY CONSTRUCTION.

(a) Nothing in this Act shall be construed to:

1. limit emergency intervention where a child faces immediate danger;



2. restrict investigations based on credible evidence of abuse, sexual exploitation, trafficking, or abandonment; or
3. prevent state actors from responding to imminent threats to a child's physical safety.

(b) This Act shall be liberally construed in favor of family integrity and parental authority.

SECTION 9. SEVERABILITY.

If any provision of this Act or its application to any person or circumstance is held invalid, the remaining provisions shall not be affected and shall remain in full force and effect.

SECTION 10. EFFECTIVE DATE.

This Act takes effect on _____.

