

Preserving Parent-Child Relationships

U.S. Constitution & Case Law

- Thus the importance of the familial relationship, to the individuals involved and to the society, stems from the emotional attachments that derive from the intimacy of daily association, and from the role it plays in promotion a way of life through the instruction of children, as well as from the fact of blood relationship. *Wisconsin v. Yoder* (1972)
- A natural parent who has demonstrated sufficient commitment to his or her children is thereafter entitled to raise their children free from undue state interference. – *Stanley v. Illinois* (1972)
- Indeed, we have never held that moral disapproval, without any other asserted state interest, is a sufficient rationale under the Equal Protection Clause to justify a law that discriminates among groups of persons. - *Lawrence v. Texas* (2003)
- Accordingly, unlike the property interests that are also protected by the Fourteenth Amendment, the liberty interest in family privacy has its source, and its contours are ordinarily to be sought, not in state law, but in intrinsic human rights, as they have been understood in “this nation’s history and tradition.” – *Meachum V. Fano* (1976)
- Equally fundamental is the substantive due process right of a child to be raised and nurtured by his parents...Until the state proves parental unfitness, the child and his parent share a vital interest in preventing erroneous termination of the natural relationship...We recognize that the forced separation of parent from child, even for a short time, represents a serious infringement upon both the parents’ and child’s rights. *Brokaw v. Mercer County* (2000) U.S. Court of Appeals, 7th Circuit

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- It is the liberty clause that enacts the Constitution's 'promise' that a measure of dignity and self-rule will be afforded to all persons. It is the liberty clause that reflects and renews 'the origins of the American heritage of freedom and the abiding interest in individual liberty that makes certain state intrusions on the citizen's right to decide how he will live his own life intolerable. – McDonald v. Chicago (2010)
- And when a state law does operate to deprive a person of his liberty or property, the Due Process Clause is applicable even though the deprivation may not be "grievous." To determine whether due process requirements apply in the first place, we look not to the "weight" but to the nature of the interest at stake. – Smith v Organization of Foster Families (1977)
- The "nature of the interest" at stake here is the interest that a natural parent has in his or her child, one that has long been recognized and accorded constitutional protection. We have frequently "stressed the importance of familial bonds, whether or not legitimized by marriage, and accorded them constitutional protection." – Caban v. Mohammed (1979)
- We have held that a State cannot terminate parental rights based upon a presumption that a class of parents is unfit....The fundamental liberty interests of natural parents....does not evaporate simply because they have not been model parents. – Hodgson v. Minnesota (1990)
- ...the "best interest of the child" standard is repugnant to American tradition and repugnant to the U.S. Constitution. – Parham v. J.R (1979); Lehr v. Robertson (1983); Zummo v. Zummo (1988)