

HJ 1/SJ 247 Negates Parental Rights

Under HJ 1/SJ 247, “every individual has the fundamental right to reproductive freedom.” Since HJ 1/SJ 247 says “individual” and not “adult,” it applies to both male and female at any age. This right to reproductive freedom shall not be “denied, burdened, or infringed upon.” Even a law to protect a child’s health in the area of reproduction is invalid if it infringes on the child’s “autonomous decision making.” As a result, any limitation protecting parental rights in the sensitive and important area of reproduction, could be eliminated under the Virginia constitution. The child will call the shots, not the parents.

Proponents of HJ 1/SJ 247 will argue that there is no explicit language in HJ 1/SJ 247 that overturns parental rights. But parental rights will suffer “death by adjudication” as lawsuits are brought in court involving HJ 1/SJ 247’s language.

Because HJ 1/SJ 247 states that “[a]n individual’s right to reproductive freedom shall not be . . . **denied, burdened, or infringed upon,**” the following consequences could follow under the Virginia constitution:

- Virginia’s law requiring parental consent prior to a minor child’s abortion will be eliminated.
- Parental consent prior to a minor child undergoing sex-change surgery will be eliminated.

Moreover, because the amendment states that “[t]he Commonwealth shall not penalize, prosecute, or otherwise take adverse action against any individual **for aiding or assisting** another individual in exercising such other individual’s right to reproductive freedom with such other individual’s voluntary consent,” we should expect that under the Virginia constitution:

- A school counselor or school employee could take a minor child for an abortion, contraception, or to undergo sterilization, and her parents could have no legal recourse to do anything about it.
- A government social worker could even show up at a child’s home to take the child to an abortion clinic, and so long as the child goes voluntarily, her parents could have no legal recourse against the social worker.

Since the amendment also states that “[t]he Commonwealth shall not **discriminate** in the protection or enforcement of this fundamental right,” we should expect that under the Virginia constitution:

- A public school clinic that distributes and administers contraceptives (including the Plan B morning after pill) could not refuse to provide contraception to certain children because their parents had not provided consent, as it would likely be viewed as “discrimination” and a “burden” on the child’s fundamental right. Parents could have no recourse against the school or school employees as the employees could be protected under HJ 1/SJ 247’s “aiding or assisting” clause.

Under HJ 1/SJ 247, the right to “reproductive freedom” in the Virginia Constitution will trump parental rights.

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