

Amendment No. 1 to HJR0369

**Bell
Signature of Sponsor**

AMEND

House Joint Resolution No. 369*

by deleting all the language after the caption and by substituting instead the following:

WHEREAS, the right of the parents to direct the upbringing and education of their children is a fundamental right protected by the Constitutions of the United States and the state of Tennessee; and

WHEREAS, our nation has long pursued the path of relying first and foremost on parents to meet the real and necessary needs of children; and

WHEREAS, the United States Supreme Court in Wisconsin v. Yoder (1972) has held that this primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition; and

WHEREAS, children are best served by the continued practice of requiring proper proof of harm before the government intervenes in the family to override parental decisions in any sphere of the child's upbringing; and

WHEREAS, certain members of the United States Senate have called upon the Secretary of State and the President to forward to them the United Nations Convention on the Rights of the Child for ratification; and

WHEREAS, Article VI of the Constitution of the United States provides that treaties that are ratified by the United States Senate become a part of the "supreme law of the land" and that state laws and constitutions are subservient to such treaties; and

WHEREAS, most law that applies to children and families in Tennessee is state law; and

WHEREAS, by virtue of the federal Supremacy Clause all Tennessee law regarding children may be overridden if there is a conflict with this treaty, if ratified; and

WHEREAS, the Congress of the United States would acquire primary jurisdiction to legislate to meet our nation's legal obligation to comply with the treaty if ratified, thereby potentially shifting from Tennessee and her sister states to the Congress of the United States powers not formerly delegated which are currently reserved to the states under the Tenth Amendment to the U.S. Constitution; and

WHEREAS, the treaty is subject to the general rule of international law that "custom" is binding law in many circumstances, rendering the text of a treaty as an unreliable guide to its future meaning; and

WHEREAS, the United Nations Committee on the Rights of the Child at periodic intervals publishes "General Comments" which are substantive additions to the obligations of state parties already under the Convention; and

WHEREAS, the United Nations Committee on the Rights of the Child makes regular determinations of the meaning and the application of the treaty, and would hold these interpretations to be binding on the Congress of the United States and the courts of the United States when interpreting and enforcing the treaty; and

WHEREAS, this treaty potentially violates a core principle of our self-government: to wit, only American legislatures and the people themselves have the moral authority to make law for America;

WHEREAS, the substance of the treaty, as interpreted and applied by this official United Nations tribunal could be construed to:

- (1) Ban corporal punishment, including reasonable spanking by parents;
- (2) Give the government review authority of a broad scope of parental decisions without the necessity of proving that the parents are unfit or have harmed the child;

(3) Allow children and government to override reasonable and ordinary decisions concerning the religious upbringing of the child;

(4) Allow the government the ability to review any parental decision concerning the education of a child, even if that decision fully complies with the law of Tennessee;

(5) Require a level of socialized spending programs for the supposed needs of children that could adversely financially impact any American state; and

(6) Grant children a legally enforceable right to leisure and many other particular "rights" that are not traditional American practices; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED SIXTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that the State of Tennessee urges the United States Senate to reject the ratification of the United Nations Convention on the Rights of the Child.

BE IT FURTHER RESOLVED, that the Chief Clerk of the House is directed to transmit a certified copy of this resolution to each member of the United States Senate.