

# Senate Judiciary Committee

*Jennifer Horgan 271-7875*

**HB 1280**, prohibiting a parent's refusal to vaccinate a child pursuant to an order of the state or federal government to be used as a basis for terminating parental rights.

**Hearing Date:** April 26, 2022

**Time Opened:** 1:07 p.m.

**Time Closed:** 1:21 p.m.

**Members of the Committee Present:** Senators Carson, Gannon, French, Whitley and Kahn

**Members of the Committee Absent :** None

**Bill Analysis:** This bill prohibits a parent's decision not to have their child vaccinated from being used as grounds to terminate parental rights.

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**Sponsors:**

Rep. Roy

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**Who supports the bill:** Representative Roy; Representative Kofalt; Representative Yokela; Representative David Love; Honorable JR Hoell, Rebuild NH; Julie Smith; Curtis Howland; Alvin See; Walter Kirsch; Julie Sims; Megan Schmitt; Amy Griffin; Alan Forbes; Danielle Snow; Jace Martin; Dan Pass; Toni Parker; Gary Friddle; Delina Kelley; Jaime Carter; Ross Carter; Chau Kelley; Richard D. Schilling

**Who opposes the bill:** Representative Horrigan

**Summary of testimony presented in support:**

**Representative Roy**

- This is a simple bill to prohibit the termination of parental rights by the State for any parent that refuses to have their child vaccinated.
- This has not yet happened to his knowledge; so this is prophylactic.
- SB155 from last year would have prevented the termination of employees by private employers for not being vaccinated. It failed 193-182 based on the argument that it wasn't happening, and it wasn't going to happen. A year later numerous people have lost their jobs due to their refusal to get a vaccination.
- As a baseline principle the State should not be allowed to terminate rights of a parent for making a health decision that they do not want their child to be vaccinated.

- There are other avenues the State can use to deal with instances between the child, the parent, and the medical community, but one of those avenues should not be taking away the child.
- Senator Whitley asked if this has happened in other states.
  - Is not aware.
- Senator Carson noted that the State cannot tell the federal government what to do and asked about removing the words “federal government.”
  - Thought about that. The federal government does not take children away, the State does. The State can say they will not take a child away regardless of a federal directive. Supremacy would only come into effect if the federal government tried to take a child. Not aware of situations, except for in immigration issues, where the federal government separates a child from a parent.
- Attorney Lehmann asked if the language would be limited the State using a parent’s decision in the limited circumstance where the State or federal government mandates it or if the intent is to ensure that a parent’s decision to not vaccinate their child never be used as grounds.
  - Had not contemplated any other grounds. Wants it to be all encompassing. Would be open to helping with any amendments.

#### **Representative Yokela**

- During the hearing in the House someone testified who had previously worked for DHHS who knew someone who did not have their rights terminated but did have their children taken to a group home temporarily due to the parent’s hesitation on vaccinations.
- The issue of grounds was not brought up in the House.
- The intention of the Committee is that the decision to vaccinate would not be considered when DHHS is deciding whether or not to take a child.
- This is a guidance to DHHS in NH.

#### **Chau Kelley**

- Parents give birth to children, not the State, and it is not up to the State to cut the tie between the parent and the child.
- Shared her personal experience of being separated from her mother and how that has impacted her negatively throughout her life.
- DHHS is supposed to be there to act in the best interest of the child, but this would cause more harm to the child.
- The body of the child belongs to the parent, not the State.
- Spoke to how her child does not do well with Western medications and how they need to use herbal medicine.
- Parents know their child best, so if the parent chooses not to vaccinate it is not the State’s business.

#### **Summary of testimony presented in opposition: Representative Horrigan**

- Noted that this language is in the same paragraph as the exemption designed for Christian Scientists.
- This is designed broadly but in the context of the COVID-19 pandemic.
- Spoke to the efficacies and safety of the COVID-19 vaccines.
- This bill would apply to all vaccines from measles, mumps, smallpox, and more.
- Terminating the parental relationship is a drastic step.
- Does not think there is any danger of the State terminating the parental rights of every parent that does not vaccinate their child; that is an unrealistic fear.
- This bill goes too far.
- It is reckless to not vaccinate your children if you have the chance.
- There are problems with the way the bill is written and does not think there is any value in trying to fix it this year.

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Date Hearing Report completed: April 29, 2022