



**Testimony of Kimberly McCullough, Policy Director
In Support of HB 2849
House Judiciary Committee
April 3, 2019**

Chair Williamson and Members of the Committee:

The American Civil Liberties Union of Oregon¹ supports HB 2849, which would which would balance the civil liberties and civil rights of children and parents in juvenile dependency proceedings.

The ACLU of Oregon supports this bill because it carefully balances these rights in a way that will better ensure that our system is promoting the best interests of children and families. We appreciate the careful process through which this policy was developed, and the invitation to participate in those discussions, and we are pleased with the final product as reflected in HB 2849.

A policy to protect the rights of children necessarily raises critical and difficult issues regarding the sometimes competing rights of children and their parents. On the one hand, children, especially when they are very young, are dependent on their parents. Ordinarily this relationship is a necessary source of nurture and support for the growth and development of children and should not be ruptured, especially not by the state.

What psychologists call "the imperative to care for one's offspring" thus normally ensures the protection of children from substantial harm within the family. But not always. **There are instances when children suffer lasting injury at the hands of their parents, sometimes as a consequence of parental incapacity, and when state intervention is therefore justified.** For this reason, the ACLU policy supporting personal autonomy for adults against state intervention cannot be automatically extended to a principle of unqualified family autonomy.

¹ The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan, nonprofit organization dedicated to preservation and enhancement of civil liberties and civil rights, with more than 45,000 members and supporters statewide.

On the other hand, any policy that permits involuntary state intervention in the family raises the danger of other abuses. First, state intervention impinges on the **rights of privacy** of parents and families, and also impinges on what might be termed a **right to parenthood**. Equally important, **state intervention itself often results in substantial harm** to the children who are presumably being protected. The institutionalization of children which frequently results from such intervention has been clearly demonstrated to be harmful to the child's development.

Moreover, the history of involuntary state intervention into family life is studded with instances of judgments made on the basis of such impermissible criteria as race, sex, sexual orientation, economic class, or political or religious or cultural beliefs and practices. **The record shows that involuntary state intervention into family life risks serious civil liberties violations.** For these several reasons, we believe that children's rights are ultimately best protected by a policy that strongly presumes family integrity, except in exceptional cases.

HB 2849 strikes the right balance in Oregon law, by:

- Heightening the standard for taking a child into custody without a court order, aligning our statutes with the constitutional standard;
- Ensuring that when removal happens, it is necessary for child safety;
- Easing unnecessary requirements for caseworker applications for a court order for removal; and
- Allowing caseworkers and law enforcement to remove children with serious physical injuries for the purpose of conducting necessary abuse assessments.

For these reasons, the ACLU of Oregon urges you to support HB 2849. Please feel free to contact us if you have any questions, comments, or concerns.