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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH
SESSION

HOUSE FILE No. **402**

February 7, 2011

Authored by Erickson

The bill was read for the first time and referred to the Committee on Civil Law

1.1 A resolution

1.2 urging the members of the United States Senate to oppose ratification of the United

1.3 Nations Convention on the Rights of the Child.

1.4 WHEREAS, the right of the parents to direct the upbringing and education of their children

1.5 is a fundamental right protected by the Constitutions of the United States and the state of

1.6 Minnesota; and

1.7 WHEREAS, our nation has long pursued the path of relying first and foremost on parents to

1.8 meet the real and necessary needs of children; and

1.9 WHEREAS, the United States Supreme Court in *Wisconsin v. Yoder* (1972) has held that

1.10 "This primary role of the parents in the upbringing of their children is now established beyond

1.11 debate as an enduring American tradition"; and

1.12 WHEREAS, children are best served by the continued practice of requiring proper proof

1.13 of harm before the government intervenes in the family to override parental decisions in any

1.14 sphere of the child's upbringing; and

1.15 WHEREAS, certain members of the United States Senate have called upon the Secretary of

1.16 State and the President to forward to them the United Nations Convention on the Rights of the

1.17 Child for ratification; and

1.18 WHEREAS, Article VI of the Constitution of the United States provides that treaties that

1.19 are ratified by the United States Senate become a part of the "supreme law of the land" and that

1.20 state laws and constitutions are subservient to such treaties; and

2.1 WHEREAS, virtually all law that applies to children and families in Minnesota is state
2.2 law; and

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

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

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

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

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

2.20 WHEREAS, this represents a wholesale abandonment of the ultimate sovereignty of the
2.21 United States on matters within the scope of the treaty; and

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

2.25 WHEREAS, the substance of the treaty as interpreted and applied by this official United
2.26 Nations tribunal:

2.27 • bans all corporal punishment, including reasonable spanking by parents;

2.28 • gives the government review authority of a broad scope of parental decisions without the
2.29 necessity of proving that the parents are unfit or have harmed the child;

2.30 • allows children and government to override reasonable and ordinary decisions concerning
2.31 the religious upbringing of the child;

3.1 • allows the government the ability to review any parental decision concerning the
3.2 education of their child, even if that decision fully complies with the law of Minnesota;

3.3 • requires a level of socialized spending programs for the supposed needs of children
3.4 (which in too many cases simply employ more government workers) that would bankrupt any
3.5 American state; and

3.6 • grants to children a legally enforceable right to leisure and many other particular "rights"
3.7 that are contrary to American traditions and common sense; NOW, THEREFORE,

3.8 BE IT RESOLVED by the Legislature of the State of Minnesota that it hereby condemns
3.9 the United Nations Convention on the Rights of the Child.

3.10 BE IT FURTHER RESOLVED that it urges the United States Senate to reject its ratification.

3.11 BE IT FURTHER RESOLVED that a copy of this resolution be distributed to each member
3.12 of the United States Senate.

3.13 BE IT FURTHER RESOLVED that the Secretary of State of the State of Minnesota is
3.14 directed to prepare copies of this memorial and transmit them to the President of the United
3.15 States, the President and the Secretary of the United States Senate, the Speaker and the Clerk
3.16 of the United States House of Representatives, the chair of the Senate Committee on Foreign
3.17 Relations, the chair of the House Committee on Foreign Affairs, and Minnesota's Senators and
3.18 Representatives in Congress.