



# Foundation for Moral Law

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October 3, 2022

## **Re: Mandatory Mental Health**

Dear Concerned Alabama Citizen,

The Foundation for Moral Law opposes Act 2022-442 (originally House Bill 123) in its entirety and advocates instead for morality to be revived in Alabama's schools.

Principally, Act 2022-442 commands every local board of K-12 education (and independent school system) to employ a coordinator of mental health services. The increasing rates of teen suicide, drug use among youth, and anxiety and depression diagnoses of school-aged children have caused a push for mental health services in public schools. However, the true cause of these issues and many others in Alabama's schools is quite simple: the deliberate elimination of morality. God has been removed from schools such that the mental health of our youth has declined dramatically in recent decades. An obligatory mental health program is not the solution.

Children, especially those whose spiritual needs have been neglected by authorities forbidden from teaching morality, are especially vulnerable to indoctrination from mental health counselors. On the other hand, a child's own harmful ideas, like wanting to change their gender, would likely be affirmed under this state-mandated mental health program. Even worse, this could be done without their parents' knowledge or consent.

The Act requires school authorities to adopt an "opt-in" policy, which, at minimum, must require an "opt-in" (written parental consent) for the participation of children under the age of fourteen. Crucially, however, neither consent nor bare notice to a parent or guardian is required for children aged fourteen or older to receive mental health services under this compulsory program. Therefore, while mental health services in schools will be useless at best, and dangerous at worst, this Act mandating child mental health services also violates both federal and state constitutional principles protecting the long-held fundamental rights of parents.

The Fourteenth Amendment protects parents' fundamental right to direct the upbringing of their children, along with Alabama constitutional law. Act 2022-442, introduced as House Bill 123, patently offends this right. The Supreme Court first

recognized the fundamental liberty of parentage in the 1923 case *Meyers v. Nebraska*, finding the right of parents to “establish a home and bring up children.” 262 U.S. 390, 399. Two years later, in *Pierce v. Society of Sisters*, the Court found that “[t]he child is not the mere creature of the State.” 268 U.S. 510, 535 (1925). In *Troxel v. Granville*, quoting the aforementioned and citing extensive precedent spanning over 75 years, the Court declared: “it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children,” which it also called “the oldest of the fundamental liberty interests.” *Troxel v. Granville*, 530 U.S. 57, 64-66 (2000).

In Alabama, “[t]he right to parent one's child is a fundamental right.” *K.W. v. J.G.*, 856 So. 2d 859, 874 (Ala. 2003). And “[a]mong those interests lying at the core of parents' rights to raise and care for their own children is the right to control their children's companions and associations.” *R.S.C. v. J.B.C.*, 812 So. 2d 361, 368 (Ala. Civ. App. 2001). In *R.S.C.*, the Court of Civil Appeals went on to quote Justice Souter concurring with the Supreme Court in *Troxel*:

The strength of a parent's interest in controlling a child's associates is as obvious as the influence of personal associations on the development of the child's social and moral character. Whether for good or for ill, *adults not only influence but may indoctrinate children*, and a choice about a child's social companions is not essentially different from the designation of the adults who will influence the child *in school*.

530 U.S. at 78-79. And of course, “a parent or guardian in Alabama has a constitutional right to choose the type of K-12 education that is best for his or her child, whether public or nonpublic, religious or nonreligious, and including home-based education.” Ala. Code § 16-1-11.1 (1975).

In this context, Act 2022-442 is an infringement upon fundamental rights. While mandating action by every school board and “independent” school system, it leaves open the glaring potential for a public official to be forced by the state to provide mental health services to a fourteen year old, while prohibited by the school board from notifying their parents.

At minimum, Act 2022-442 must be changed in text or application to not violate the long-held fundamental rights of Alabama’s parents. The most obvious solution would be an amendment by the Legislature. But if the Legislature is unwilling to amend the statute, there are at least two other possible remedies:

(1) Local school boards acting under this law to create a parental opt-in policy could require parental consent for a child of any age to receive mental health services. The Act 2022-442 requirement of parental consent for those under fourteen

is only a minimum requirement; nothing in the statute prohibits school boards from adopting a stricter requirement of consent for all ages.

(2) Alternatively, Alabama's State Board of Education could adopt a rule requiring parental consent at all ages, extending beyond fourteen, even though the state law does not.

However, neither of these remedies would solve the fundamental problem that has led to this Act. Unfortunately, if mental health services were pushed, many parents would likely sign over their children, even if given the chance to object. The lack of morality and removal of God from our schools is the real root cause of the mental health problems schoolchildren are struggling with. God must be put back into schools to truly help the children of Alabama.

Moreover, whether to provide mental health services at all should be a choice of the local school boards, rather than imposed on them by the State legislature. Thus, the Foundation opposes Act 2022-442 wholesale and advocates for solving the underlying issue instead: the lack of morality in Alabama's schools.

Sincerely,

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