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April 18, 2008

Representative John Stahl
S1186 House Office Building
P.O. Box 30014
Lansing, MI 48909-7514

Re: Joint Resolution NN and Parental Rights

Dear Representative Stahl:

I wrote to you on March 14, 2008, raising some concerns about the unintended impact of a successful passage of Resolution NN. Perhaps you have had a moment to look at that letter? Frankly, would you consider language better suited to achieving your goal.

If you are concerned that the right of parents, if declared to be absolute in regard to the education and upbringing of their children will open the door to child abuse, I would encourage you to meet with me so I can explain to you how this is not the case and/or, in the alternative, I would be happy to forward you a copy of my book on this very subject.

As things now stand, however, the proposed language does more harm than good.

I also note that even a constitutional amendment will need proper implementing legislation. I have again attached a proposed Bill which you can introduce today on the floor of the House to support parental rights. If the Bill is too omnibus for your taste, then at least introduce Section 6 as a stand alone measure and provide property tax relief for parents who choose to educate their own children. I am not proposing a voucher or tax credit. I am proposing property tax relief on the same footing as enjoyed by other educational institutions.

Should you have any questions, please feel free to contact the undersigned.

Very truly yours,



Kerry L. Morgan, Of Counsel

KLM:klz

Enclosure

Z:\5-Staff\KLM\April 18 letter to Representative Stahl.wpd

HOUSE BILL No. _____

May ____, 2008, by REPRESENTATIVE _____, and referred to the
_____.

A bill to establish and protect certain unalienable rights of parents and legal guardians with regard to the education and upbringing of their children

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. [Short Title]

This act shall be known and may be cited as the “the unalienable rights of parents act”

Sec. 2. [Authority and Construction]

This Act shall be liberally construed to secure intellectual freedom and the unalienable right of parents to direct the education and upbringing of their own children free from state interference, regulation and control.

This Act is a valid exercise of the power reserved to the States under the tenth amendment of the United States Constitution. Its object is to define and secure the unalienable rights of parents retained by the people as guaranteed in the ninth amendment of the United States Constitution.

This Act is an appropriate legislative expression of the laws of nature and of nature's God as embodied in the Declaration of Independence, the principles of which and classification of unalienable rights referred to therein are hereby expressly acknowledged as binding on this state as a member of the Union on equal footing with all other states.

This Act implements and furthers the meaning of this state's constitution, Article 1, sections 2 and 23 referring to civil, political, and unenumerated rights including unalienable rights; Article VII, sec. 1 regarding encouraging the means of education; and MCL 380.10 referring to fundamental and natural rights.

Section 3. [Definitions and Exclusions]

For the purposes of this Act:

a) the term “parent” includes a natural parent, legal guardian or any person acting *in loco parentis* or pursuant to a contract for educational services between a parent and teacher, but shall not include any governmental entity or public school official or employee.

b) The term “education” includes any instruction, propagation or discipline that is intended to enlighten or expose one to any idea, set of ideas or curriculum, whether formal or informal.

c) The terms "children," "child," or "minor" shall include any person under the age of 17.

d) Nothing herein shall be construed to prohibit the state legislature from establishing, funding and maintaining institutions to: 1) instruct any member of this state's Militia in military science; 2) provide instruction or education to persons lawfully incarcerated, provided participation is on a voluntary basis or in the case of minors where the state acts in *parens patriae* pursuant to a lawful court order; or 3) preclude making available information or publications pertaining to the operation of any governmental entity or service.

e) Specific performance shall not be judicially ordered in cases or controversies arising *ex contractu* between parents and their educational agents, though other relief or damages, legal and equitable may be ordered.

Sec. 4. [Unalienable Right of Parents]

a) Every parent has the unalienable right to direct the education and upbringing of his or her child, free from any governmental interference, regulation or control.

b) No law shall control, regulate or alienate this right, including any law relative to when, where, by whom or in what manner children are to be educated.

c) No parent shall be compelled to expose his or her own child to any education, curriculum or instruction, nor shall any parent be punished or fined for failure to instruct or expose their own children to same.

Sec. 5. [Limited Parental Liability]

a) No minor child shall be considered or declared abused or neglected or otherwise in need of social services pursuant to MCL 722.622 or other statute, solely on the basis that his or her parent has not attended to his or her education.

b) No child has any right to compel his or her parent to provide him or her with an education, the natural relationship between parent and child not being subject to regulation by any civil power. No governmental entity shall interfere with the parent-child relationship, absent demonstrable evidence indicating imminent endangerment of the physical health or physical safety of the child. No governmental entity shall interfere with the parent-child relationship on the basis of a psychological or mental condition arising from the child's education or lack thereof.

Sec. 6. [Financial Support]

a) No person shall be compelled by law to provide financial support by taxation of any type, fees, assessments or by any other means, to any school, educational program, curriculum or instruction. The state fund established in Article IX, Section 11 of the

Michigan Constitution, shall not include revenue based upon or derived from a primary residence or other facility or structure in which a child is being educated.

b) Notwithstanding any section of MCL 211.21a *et. seq.*, the entire parcel upon which is located a primary residence or other facility or structure in or upon which a child is being educated, is exempt from all ad valorem real and personal property taxes imposed by this state or by any political subdivision, public body, or taxing district in which the residence, facility or structure is located.

c) The record owner of said parcel shall be entitled to the above exemption by annually filing an affidavit with the local unit of government averring that a child is being educated upon or within the parcel. No other averment shall be required or permitted.

Sec. 7. [Compulsion in Attendance]

Notwithstanding MCL 380.1561, MCL 380.1577 and MCL 388.554 or other law pertaining to compulsory attendance, no minor child shall be compelled to attend any school or educational institution whatsoever. Nothing herein shall be construed to prohibit any parent from compelling his or her own minor child from attending any school, home school, or educational institution; or to prohibit the state from providing education to minors committed to its custody by Court order.

Sec. 8. [Regulation of Parents and Teachers Prohibited]

a) Notwithstanding MCL 380.1233, no person shall be subject to any registration, licensure, certification or review by any state, municipal or other governmental authority as a condition or qualification to teach or instruct any child.

b) Nothing in this section shall be construed to prohibit any private authority from establishing standards or regulating its membership.

Sec. 9. [Intellectual Freedom]

a) All persons shall be free to profess, and by argument to maintain, their opinions, and that the same shall in no wise diminish, enlarge, or affect their unalienable, civil or any constitutional rights. No person shall be restrained, harassed, or interfered with in his or her person or property by any state, municipal or other governmental authority, nor shall otherwise suffer on account of his or her own opinions or beliefs or on account of transmitting those beliefs to his or her child.

b) Nothing in this section shall be construed to affect the laws of this state pertaining to protection of minors from exposure to lewd or pornographic materials.

Sec. 10. [Freedom of Contract]

Every parent shall be free to select or not select his or her own agent as instructor or teacher and no state agency, county or local unit of government shall approve, license, register, certify or otherwise regulate or interfere with that freedom.

Sec. 11. [Judicial Relief]

a) Any parent, natural guardian or any of their lawful agents who are interfered with by any person acting under state law, color of state law or in a private capacity in any way prohibited by this Act, may seek legal and equitable relief including damages in a court of competent jurisdiction.

b) If a public body, school official or political subdivision is not complying with this act, the attorney general, prosecuting attorney of the county in which the public body or political subdivision serves, or a person may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

c) An action for injunctive relief against a local public body, school official or political subdivision shall be commenced in the circuit court, and venue is proper in any county in which the public body or political subdivision serves. An action for an injunction against a state public body, school official or political subdivision shall be commenced in the circuit court and venue is proper in any county in which the public body or political subdivision has its principal office, or in Ingham county. If a person commences an action for injunctive relief, that person shall not be required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

d) An action for mandamus against a public body, school official or political subdivision under this act shall be commenced in the court of appeals.

e) If a public body or political subdivision is not complying with this act, and a person commences a civil action against the public body or political subdivision for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the person shall recover court costs, actual attorney fees for the action and actual damages, or liquidated damages of not more than \$500.00.