

Dear Members of the Judiciary Committee,

I am writing to urge you to oppose SB 174, as recently amended on November 29, 2025. While the bill is presented as a measure to clarify “parental responsibilities,” its effect is to eliminate constitutionally protected parental rights and replace them with discretionary authority vested in judges and the state. If enacted, SB 174 would invite extensive litigation and could be deemed unconstitutional under the Fourteenth Amendment of the United States Constitution.

1. SB 174 Violates Fundamental Parental Rights Recognized by the U.S. Supreme Court.

The Supreme Court has long recognized the right of parents to direct the upbringing, education, and care of their children as a fundamental liberty interest protected by the Due Process Clause of the Fourteenth Amendment. Key cases include:

- *Troxel v. Granville*, 530 U.S. 57 (2000): The Court affirmed that “the interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by this Court.”
- *Santosky v. Kramer*, 455 U.S. 745 (1982): The state may not infringe upon parental rights without clear and convincing evidence of unfitness or harm.
- *Stanley v. Illinois*, 405 U.S. 645 (1972): The state cannot presume parental unfitness or remove children without due process.

SB 174 eliminates the legal recognition that parents possess a primary right to make decisions about their own children’s upbringing. This shift subordinates fit parents to the court’s discretion, precisely the kind of government overreach those cases forbade.

2. SB 174 Grants Courts “Complete Discretion” – Eliminating Due Process Safeguards

The bill gives courts “complete discretion” to create, modify, or reject parenting plans even when both parents are fit and in agreement. Such unchecked discretion allows judges to override parents’ joint decisions regarding communication, visitation, schooling, and healthcare without any showing of harm or danger. This is not within “best interest of the child”.

Due process requires clear standards and evidentiary thresholds before the state may interfere with family integrity. SB 174 removes those guardrails, effectively allowing the state to intrude into everyday parenting choices without cause or process.

3. The “Preponderance of Evidence” Standard for Declaring a Parent “Unsuitable” is Constitutionally Deficient

Parental rights cannot be terminated or substantially curtailed based on the lowest standard of proof. Using a mere *preponderance of evidence* to determine a parent “unsuitable” violates the Supreme Court’s holding in *Santosky v. Kramer*, which requires clear and convincing evidence before the state can sever or restrict parental custody rights.

SB 174’s language would allow courts to deem a parent unfit, or limit contact, based merely on the other parent’s “fear of harm,” a subjective and unprovable feeling. This provision effectively enables false or exaggerated allegations to deprive a parent of contact with their child, again without the constitutionally required level of proof.

4. Expanding Judicial Control Over Routine Parenting Decisions is Government Overreach

SB 174 authorizes judges to dictate when and how fit parents may text, call, or interact with their own children. It allows courts to order investigations, evaluations, and restrictions, all at parents' expense, even when there is no evidence of harm or dispute.

This is a dangerous precedent. The government should not substitute its judgment for that of fit parents. By intruding into minute details of family life, the state risks violating both substantive due process (interference with liberty interests) and equal protection, as decisions may be based on subjective judicial bias about gender roles, work schedules, or personal beliefs.

5. SB 174 Will Invite Litigation and Burden the Courts

If enacted, SB 174 will trigger constitutional challenges under both federal and state law, resulting in costly litigation for the state and confusion for families. Courts across the country have consistently struck down statutes that reduce parents to "custodial participants" under the state's supervision rather than autonomous caretakers of their children.

In conclusion:

SB 174 is not a modernization of family law; it is a dangerous expansion of judicial power at the expense of parental rights and due process. The state has no legitimate interest in dictating parenting practices between fit, cooperative parents. Upholding the Constitution means rejecting this bill in its current form.

Please vote NO on SB 174.

Respectfully submitted,
Nicole MacLellan
Westerville, Ohio

