

Rep. Luke Malek, R-Coeur d'Alene, re: why he voted against "parental rights" bill:

I absolutely support parental rights, but the bill did nothing for parental rights. In fact, it significantly harmed the entire philosophy of rights by suggesting that the legislature could give rights. Thus, the legislation was constitutionally repugnant...trying to score cheap political points at the expense of the rule of law.

God gives individual rights. The Idaho legislature does haven't that much power. The beauty of our system of government is that individual rights are presumed to be God-given, and that any power that government has is given to the government by the people. Therefore, our laws outline the limited power of the government, not the inherent rights of the individuals. Our laws ought to be carefully tailored to prevent infringement on those rights. When the a law reverses that assumption, we run the risk of assuming that rights are given from the government, rather than presumed. The construction of the Second Amendment is the perfect example. It reads "The right of the people...shall not be infringed." The construction of the Second Amendment is distinctly different than saying "The people have a right." The Second Amendment presumes the right exists, and the language defers to that right. When the government exerts a right affirmatively, no matter how correct the intention, the government cheapens that right by assuming it has the power to give or grant that right. The House of Representatives wrongly voted to give what it didn't have the power to give. The body attempted to raise its status above the only power that can grant rights. While the action was right-minded in its intention to preserve rights, it is damaging to the rule of law because the language is constructed to give, rather than presume, a right. I said on the floor:

"That the powers not delegated to the government are reserved for the people, and that the people give the government its power is a fundamental tenant of our system of government. The laws and constructs of the government are subservient to the inherent and inalienable rights of the individual. The power of the government is only what is given to it by the people. This legislation offends that most basic and precious principle. If we pass this legislation, we are sending a message that rights can be given by the government, and in fact that has been argued here today. This legislation trivializes the most sacred principle in our form of government by attempting to enumerate a right. I urge you to recognize the supremacy of individual rights over government power and vote no on this bill.

I understand that this legislation is attempting to curb behavior that is damaging to parental rights. However, a better alternative to this legislation would be proscribe the government activity that infringes on those rights."

I voted against HB113 because it was one of the worst pieces of legislation I have ever seen make it to the floor.