

**THE RIGHT OF NEWBORN BABIES:
AN OPPORTUNITY
TO SUCCEED IN LIFE**

IS A NEWBORN BABY A PERSON OR PROPERTY?



**A PROPOSAL FOR AFFIRMING
PARENTAL RIGHTS BY
A PARENTHOOD PLEDGE**

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...the most prosperous nation in the world seems to be failing its children.

*Beyond rhetoric: A New American agenda
for Children and Families: Final Report.
National Commission on Children, 1991*

In 1991, the National Commission on Children concluded that America seemed to be failing its children. Today, America clearly is failing its children. The future of our nation and our economy are in jeopardy.

The United States ranks 18th of 21 Western countries in child well-being; it ranks 25th in science and math achievement of 30 Organization of Economic Cooperation and Development countries, including Finland (1st), South Korea (2nd), Canada (3rd), Poland (8th), Germany (15th), and Mexico (29th).¹

As a nation, we must join forces to ensure that our young people are prepared for our changing, increasingly sophisticated world. As it now stands, they are exposed to family instability, personal safety hazards, virtual reality, sexual stimulation, materialism, and commercial exploitation. As a result, of our children:²

- 1. One-third are failing in some aspect of their lives.**
- 2. Eleven million have been substantiated as seriously abused and/or neglected; twice as many have been reported to child welfare agencies.**
- 3. Forty percent are born out-of-wedlock.**
- 4. Marriage no longer has an inherent commitment to childrearing.**
- 5. Half live in one-parent homes at some time.**
- 6. Half do not live with their genetic fathers at some time.**
- 7. Sixty percent were directly or indirectly exposed to violence during the past year.**
- 8. Almost half were assaulted at least once during the past year.**
- 9. The average age for the onset of menstruation has dropped to 12 ½.**
- 10. 145,000 babies are born each year to school-age mothers of which over 6,000 are fourteen or younger.**

Beyond the personal suffering incurred by failure in school and consequent crime and welfare dependency are the enormous social and economic costs to our society and, thus, to all of us as taxpayers. One quarter of state and almost one-half of county expenditures are incurred by the offspring of struggling families, most of whom can be predicted before childbirth.³

The child welfare system is overwhelmed.⁴ The absence of a national investment in proven prevention and treatment services for parents and children leaves the nation's child welfare system unprepared to ensure that all children grow up in stable homes. As a result, the local and state political context for child welfare reform is often turbulent, reactive to crisis or tragedy, and ill-suited to improving performance over the long haul.

Because we only react after children born in vulnerable circumstances have been damaged, we spend billions inefficiently on efforts to rescue them from abusive and neglectful parents, to try to educate unresponsive children and adolescents, and to provide economic support for unstable families. Even the

best of these efforts – home visitation programs – have modest benefits.⁵ For example, Child Trends found that:

1. Of seven weekly home visitation programs for the parents of newborns, six had a positive effect on at least one of ten variables.
2. Of four monthly home visitation programs, none had a positive effect on one variable.
3. Of eight programs teaching parenting skills, less than half had a positive effect on one variable.

Interventions intended to reduce adolescent pregnancies subsequent to the first childbirth have had unsuccessful or disappointing outcomes.⁶ Clearly, the prevention of child abuse and neglect begins before the birth of the first child.

Our challenge is to shift from reacting to our social problems to preventing them in the first place.

How Do We React to Our Social Problems?

Our “child and youth problem” is not a child and youth problem; it is a profound adult problem as our children do what they see us adults doing in our personal, professional and public lives.

America’s Cradle to Prison Pipeline Report
Children’s Defense fund, 2007

How do we react to crime, welfare dependency, and under-productivity resulting from the abuse and neglect of our children? We blame someone or something:

1. We blame individuals – get tough on crime, zero tolerance.
 (“I made it – others should too. The lazy sponge off me.”)
2. We blame society – racism, sexism, ageism, poverty.
 (“The cards are stacked against them.”)
3. We blame government – schools, social services, law enforcement.
 (“Government doesn’t do enough. Government does too much.”)
4. We blame parents – divorce, drug and alcohol addicts, irresponsibility.
 (“Kids are out of control. Kids get too much.”)

We do not see how we all bear responsibility for our social problems by ignoring other people’s children and the circumstances in which they grow up. We do not see how we ignore the basic right of children to have competent parents who will raise them to become productive citizens. We do not commit ourselves to creating a society in which children are raised in stable families in safe neighborhoods with good schools and supportive community resources.

In the face of compelling evidence to the contrary, we believe that we care about children. We generally do respond protectively to those who are abused and spend large sums of money on them. Yet, the evidence clearly shows that we ignore their human and civil rights. Some of us even believe that they have no rights. Strikingly, the United States and Somalia are the only members of the United Nations that did not ratify its Convention on the Rights of the Child. One reason given was that our federal government does not have jurisdiction over children – only the states do.

Without question, children fare better in the United States today than in previous generations when extreme discrimination against them in the form of

blatant "juvenile ageism" prevailed. From earlier times in which children were barely recognized as more than miniature adults, we have come to appreciate childhood as a period of growth during which personalities and abilities are shaped. Beginning in the last century with the efforts of "child savers" to free children from oppressive labor and provide public education, we have reached a time in which we can consider ways of assuring them fulfilling childhoods.

Furthermore, child advocates know that strengthening families will improve the lives of children, reduce our society's problems, and increase both the economic productivity and moral stature of later generations. Although some inevitable conflicts exist between the interests of older and younger generations, it seems clear that America's will is to promote the healthy development of our children. The problem lies less in the lack of desire than in overcoming ideologies that stand in the way of doing so. The political far right holds that the privacy of the family is inviolable, and the political far left holds that the rights of parents, especially mothers, are paramount. Both ideologies view newborn babies as the personal property of their parents. For a variety of reasons, some people, including professionals and researchers especially, also believe that little can be done without further research.

In spite of these obstacles, we do know what children need now. We know which childrearing patterns are effective and which will fail, but we do not apply that knowledge. We do not have a clear vision for our nation's children.

For the sake of its present and future well-being, America must articulate its ideals for its citizens, specifically newborn babies.

Does the U.S. Constitution Guarantee Newborn Babies Rights?

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the *pursuit of happiness*.

The Unanimous Declaration of the Thirteen United States of
America, July 4, 1776.

We the people of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our *Posterity*, do ordain and establish this Constitution for the United States of America.

Constitution of the United States of America, 1787

The "unalienable rights to life, liberty and the *pursuit of happiness*" originally were intended for free men in the United States, but these rights reflect the basic needs of all human beings.⁷ Through great effort and travail, these basic needs were recognized as rights and were granted to slaves, who were the property of their owners. Later, they were applied to give voting privileges to women, who often were regarded as the property of their husbands. Then the right to the *pursuit of happiness* was applied to children, who were regarded as the property

of their parents. Although fundamental in our nation, these rights continue to be compromised by the forces of racism, sexism, and ageism to this day.

For children, the crucial question now is: when does the right to the *pursuit of happiness* begin? At the present time, it does not apply to newborn babies, who still are generally regarded as the personal property of their parents. By regarding newborn babies as personal property, government is excluded from the formation of families. Society has no direct interest in private property. But if newborn babies are regarded as persons, they are human beings with human rights.

Of course, the birth of a baby is primarily celebrated by parents, families, and religious ceremonies. But it is far more than a private event. It is the most important and absolutely essential human contribution to our society's future – to our nation's *posterity*.

Childbirth: The Lifeblood of Our Society

Childbirth is essential to the future of our society. The state celebrates it by issuing a birth certificate – the most important document held by a citizen of this country, as anyone living in the United States without one knows. A birth certificate does far more than record a birth. It establishes an identity for a newborn baby as a citizen of our nation and as a member of a family. It also includes health and family information. By establishing citizenship in the United States, it opens the door for the newborn child to all the rights and responsibilities of citizenship, including an opportunity for the *pursuit of happiness* – an opportunity to become a productive citizen.

The future of our nation depends upon newborn babies becoming productive citizens. We all have a stake in ensuring they have competent parents who can provide the nurturance and sustenance they need to fulfill their potentials in life. For this reason, parenthood is an implicit contract between parents and society.

Parenthood as a Social Contract

Childrearing is far more than a private family affair. It is a societal responsibility as well even in subgroups of our society, such as the Amish. Parenthood truly is a social contract between parents and their society. The parental side of the contract is rearing a child to become an adult member of society. The societal side of the contract is ensuring that parents have the resources to do so – jobs, safe neighborhoods, schools, health care, and supportive communities.

In this social contract, a birth certificate creates a parent-child relationship: the legal and physical custody of the child. Genetic parents take their newborns home from hospitals because the state confers legal and physical custody of their babies upon them through a birth certificate. Without this legal conferral of custody, genetic parents would have no legal basis for parental rights. When parents seek to enforce their parental rights, they involve courts in doing so based on their legal and custodial rights.

In the social contract of parenthood, society expects parents to discharge the responsibilities of parenthood, which flow from their legal and physical custody of their children. Their parental rights are based on their duties as custodians. As a part of this social contract, our society has an obligation to prevent child maltreatment by ensuring that parents are capable of being the legal and physical custodians of their children and of taking advantage of the resources our society provides for them.

Wisconsin statutes permit preventive interventions during the pregnancies of genetic mothers for the well-being of newborn babies.⁸ Funds are even to be designated for services related to unborn child abuse prevention.⁹ Unfortunately, despite federal legislation intended to induce a proactive and preventive approach to child maltreatment, action seldom takes place to protect newborn babies at-risk before they incur abuse and/or neglect.¹⁰ Instead, the state confers parental rights on genetic parents without regard for circumstances that render them unable to assume the legal and physical custody of a child. Genetic mothers who are unfit for parenthood now take newborn babies home from the hospital with little or no monitoring.

The state-issued birth certificate registers both the baby and the known parents, but it does not indicate whether or not a parent is capable of assuming the responsibilities of legal and physical custody of a newborn baby. This failure is the root cause of the intergenerational transmission of social dysfunction in our society. This failure is a tragic injustice to newborn babies. This failure causes an immense, unnecessary burden for taxpayers.

There Are No Standards for Parenthood Now

As it now stands, anyone regardless of age, disability, or legal status who conceives a child has full parental rights and is presumed to be capable of assuming the responsibilities of parenthood, possibly with support, until they demonstrate that they are not capable of doing so by seriously damaging the child through legally adjudicated neglect and/or abuse. This situation has two devastating but inevitable consequences for our children and for our society. First, anyone is regarded as capable of assuming the responsibilities of parenthood by simply conceiving a baby. Second, a newborn's right to freedom from abuse and neglect is not legally recognized until the child has already been abused or neglected and has lost that freedom.

Overlooked as well is the moral and constitutional right under the Due Process Clause of the Fourteenth Amendment against the state placing newborn babies in a legal relationship with genetic parents the state knows to be unfit.¹¹ For example, if the state terminates an adult's parental rights for one child because the parent abused a child and failed to respond to rehabilitative efforts, and if the same adult gives birth to another child, the state violates that newborn baby's fundamental rights by forcing her or him to be the legal child of that adult, just as it would violate an adult woman's fundamental rights by forcing her to re-marry a man known to be an un-rehabilitated spousal abuser. For the state to force any person into intimate relationships that are likely to be seriously

detrimental to them is an unconstitutional abuse of state power, and never more so than when these persons are in the developmentally critical early years of life. The following case illustrates the extent to which the rights of a newborn child can be ignored:

Michael was a 6-month-old baby in a permanent vegetative state because of profound brain damage due to birth asphyxia caused by severe blood loss during an unattended delivery after his mother signed out of the birthing unit of a hospital against medical advice. Her parental rights had been terminated for all of her five previous children due to neglect. The first was born when she was 16. She showed little interest in Michael, rarely visiting or interacting with him, but she continued to have decision making authority and insisted that “everything be done” to extend Michael’s life as long as possible.

Unlike all other activities that can adversely affect others or oneself, such as driving a motor vehicle, voting, entering the military service, marriage, smoking tobacco, and drinking alcoholic beverages, there are no standards for entering parenthood for genetic parents. Parenthood entails far greater responsibilities than any of the aforementioned privileges of citizenship. Yet, there are no age or capacity standards for genetic parenthood, such as we have for foster parents, adoptive parents, teachers, and child care workers.

We know that children from thriving families are likely to do well in life, and children from struggling families are likely to fail. We believe that every newborn should have an opportunity to succeed in life. We know that babies born with parents who cannot care for them are destined to fail in life. In spite of this knowledge, we stop short of any action that would infringe upon the rights of parents to possess and control the lives of their children. Newborn babies especially are viewed as the personal property of their parents. So nothing is done to protect the right of a child to have an opportunity to succeed in life until that child is seriously damaged by abuse and/or neglect. This means that government must intervene all too often after abuse and/or neglect have taken place and must take over responsibility for affected children with unfortunate and costly results for all concerned.

If we are to protect unborn children and to reduce the involvement of governmental agencies in family life, we need to consider the way we act upon risks and costs to our society.

Prioritizing Risks to Our Society

With the growing interest in preventing environment pollution and diseases, attention is being devoted to risk reduction. As our ability to detect risks to the quality of our lives improves, our opportunities for reducing those risks have increased as well.¹²

Unfortunately, we have proceeded haphazardly, responding to each risk as it is identified without prioritizing it. For example, the range of unacceptable risks is from 1 in 10,000 for federally regulated drugs to 3 in 100 for factory-work injuries to 1 in

10 for lung cancer for smokers. In this perspective, the risk of damage to children by incompetent parents is at least 1 in 3. In this light, the risk created by incompetent parents to society is the greatest hazard of all to human beings, yet it is unrecognized.¹³

Each child who has been abused and neglected by incompetent parents costs our economy \$2.8 million. Each child raised to become a productive citizen by competent parents contributes \$1.4 million to our economy.¹⁴ In social cost terms, the benefits of fostering competent parenthood are reductions in crime, child abuse and neglect, welfare dependency, and unemployment. Beyond these measurable financial benefits are incalculable gains in personal fulfillment and happiness. These facts must be recognized in our social policies and workplaces.

We have the choice of continuing to ineffectively react to the devastating consequences of incompetent parents or of preventing this tragic waste of human and economic resources by ensuring competent parents for all of our children. How we do this depends upon how we view children.

How Do We View Children?

Most important is how childhood is conceived. If we regard children as objects (brains) to be shaped by the latest technology, we look to science and more research for guidance in childrearing techniques.

In contrast, if we see children as the next generation of our culture, we look to our culture for values to guide childrearing. Our present dilemma appears to result from reliance on science for childrearing methods that can only be defined and articulated by culture. It makes no more sense to base childrearing on technology than it does to base our adult lives on the latest experimental findings in the social sciences. We can use science to enhance aspects of our lives but not to provide meaning and purpose for our lives.

What's more, the dehumanizing tendency of our modern technological society and our adulation of celebrities not only depletes adults' lives of meaning, but erodes the very foundations of our humanity as children are deprived of positive role models.

One of the reasons science has overshadowed culture in childrearing has been the tendency to regard the United States as such a heterogeneous nation that an American culture does not exist. Recognizing an American culture has even been construed as denying the existence of multi-cultural minorities through an unwelcome emphasis on "the majority." In fact, there are truly unique American traditions that form the substrate of our American culture and its subcultures. The existence of our American culture is most obvious to those who view the United States from the outside and seek to live here and is least evident to Americans themselves.

The essence of our culture points us in the direction of taking constructive action to give all of our children an opportunity to succeed in life.

What Is the Essence of American Culture?

Personal competence is the essence of our American culture – the “can do” spirit

that created the United States and propelled this nation into global leadership. We expect that systems and products will work. We expect workers to be proficient in their jobs. We expect contracts to be honored. We expect fairness in business dealings. We expect that laws will be obeyed. We expect that competence will be rewarded. In essence, we expect people to competently assume and discharge their responsibilities to others. We also do expect, at least in our rhetoric, that everyone will have opportunities to become competent citizens.

The ingredients of personal competence are: social skills, self-control, the ability to learn, moral values, self-identity, self-esteem, and decision-making ability. We know that acquiring personal competence depends largely upon stable parent-child relationships. Gifted individuals may survive and even flourish under adversity during their early lives; however, this is not true for the vast majority of children. We know that each child needs dependable, intimate relationships with adults as models for developing the capacity to relate intimately to other persons – the foundation of success and gratification in life. Each child needs relationships with peers to develop the capacity for cooperative relationships with others. Each child needs adults who model competent living. When children have had these opportunities to meet their developmental needs, they achieve personal competence.

We also know where we have gone wrong. There is much evidence that disrupted and disturbed parent-child relationships have deprived far too many children of models of competence. At least one-third of our children have not developed the skills needed for competent living and suffer from a range of vulnerabilities based upon the lack of self-respect, respect for others, and often both. We know that a variety of personal, family, and social factors interact to convert these vulnerabilities into handicaps.

We know that we have not identified vulnerable children soon enough. We have inflicted greater disabilities on many we have callously labeled as disabled, deviant, or delinquent. We have ignored the fact that newborn babies cannot choose their parents. Even worse, we have not provided effective remedies for those we have tried to help. The fragmentation and discontinuity of services for children have made it necessary to call national attention to our disregard of the most fundamental human right of children to simply have competent parents.

All systems that deal with children have built-in mechanisms that make it possible for professionals to insulate themselves from the painful dilemmas encountered in the course of their work. A health worker can be absorbed in the treatment of disease, a lawyer in courtroom procedures, a social worker in administrative policies, an educator in the mechanics of teaching, and a parent in childrearing techniques. These defenses maintain the homeostasis of each system. They deserve critical analysis, however, because the systems themselves can be self-serving and antithetical to the interests of children. Some, such as the prison industry, depend upon the neglect and abuse of children. What's more, the systems in which these professionals work compete for limited financial resources.

In promoting the interests of children, the economic costs of childrearing also must be faced. It is evident that the value of children has changed as our society has evolved from stable-rural to unstable-urban families and from a labor

to a technological economy. Children are no longer economic assets for their parents. Increases in the cost of raising children cause parents, and the economy generally, to view childrearing as an economic liability in competition with other priorities. Moreover, the satisfactions of parenthood have been downgraded in favor of the satisfactions of work away from home.

On the other hand, in a less tangible but more important sense, children enrich the lives of adults. Children do not really need parents with specialized expertise. Although technical aid may be required in raising certain children, the day-to-day needs of children, whether they are troubled or not, can be met by well-intentioned, compassionate, and competent adults. To be a parent and raise a child requires more in the way of common sense and less in the way of technical knowledge. Unfortunately, too many parents encounter seemingly insurmountable barriers to involvement in their children's lives because they are overwhelmed by their personal problems or their vocational lives.

From this, it follows that promoting the well-being of families is the most important thrust of fulfilling the right of children to have an opportunity to succeed in life. Income maintenance, parental leaves, homemaker services, adequate housing, recreational facilities, and marital counseling to bolster family integrity are vital to the development of children. Family planning also is essential because an unwanted or an additional child can detonate family disintegration as well as becoming its principal victim. For children with mothers in the workforce, adequate day care and after-school programs are essential. In general, the realistic rewards of family living need emphasis to counteract misconceptions about the onerous burdens of childrearing.

All of these considerations for promoting healthy families lead to a public health approach to our social problems.

Primary, Secondary, and Tertiary Prevention

Primary, secondary, and tertiary prevention are public health concepts that can be productively applied to social problems, especially potentially abusive and/or neglectful parents. Primary prevention means the prevention of a condition, as through immunization. Secondary prevention means treating the condition, and tertiary prevention means reducing the resulting disability from the condition.

Applied to potentially abusive and/or neglectful parents, primary prevention includes preventing adolescent pregnancies, the adoption of the newborns of incompetent parents, and home visitation for the parents of all firstborns. Secondary prevention is intervening with struggling parents and assisting them with parenting skills and resources. Tertiary prevention is intervening when child abuse and neglect have occurred to minimize the consequent damage to children.

Most of human services resources are devoted to tertiary prevention with a growing interest in secondary prevention, which has a lower priority when funding is curtailed. As a result, primary prevention, which is the most cost-effective, is sacrificed to less cost-effective secondary and tertiary interventions.

Unfortunately for the newborn babies and for society, primary prevention efforts stop with the prevention of adolescent and other dependent pregnancies when these mothers elect to continue to childbirth. This shift from preventing their pregnancies to supporting dependent mothers omits the primary prevention intervention of adoption. As a result, 97% of pregnant dependent mothers choose to become parents, and 20-30% actually chose to become pregnant in the first place because of the status and support they receive from becoming parents.

The challenge is to increase the competence of professionals who work with children. We do not need new professionals to find children at risk; this can be done by sensitizing those already on the scene. We do not need more research to know what children need; our present knowledge can be disseminated. Existing professionals can be trained and deployed in interdisciplinary teamwork, protecting children's rights, and coordinating resources for children and families.

In a broader sense, a social policy committed to conserving our nation's developmental potential through promoting personal competence in children and in their parents is urgently needed. America must place a high priority on childrearing or face an uncertain future.¹⁵ As our nation's largest permanent minority, our children depend upon us to make a commitment to ensuring that all of them are on a level playing field at the beginning of their lives by having competent parents. We need to set minimum standards for parenthood. We can begin to do so by incorporating a parenthood pledge into the birth record and thereby creating an explicit legal contract between parents and our society.

A Parenthood Pledge

Today, genetic mothers and fathers have no way of acknowledging the responsibilities of parenthood other than through baptism in a religious setting. In the Netherlands, an upbringing pledge has been proposed as a social institution and a legal framework through which the commitment of parents to raise their children to become productive citizens can be expressed.¹⁶

In the United States, the failure of millions of parents to meet their parenthood responsibilities results in the enormous public costs of governmental involvement in family life that could be dramatically reduced by two simple requirements: 1) no one who requires a legal and physical custodian or a guardian will be allowed to assume the responsibilities of parenthood, and 2) all qualified parents of newborns will publicly acknowledge acceptance of the responsibilities of parenthood.

We can take a significant step toward ensuring that every newborn has a chance to succeed in life by making the following legal presumptions:

- 1) *A person is presumed to be qualified to assume the responsibilities of parenthood if:*
 - a) that person is the genetic parent of a child and is legally competent to manage her or his affairs (i.e., is not under the legal and physical custody or guardianship of another person or of the state) or
 - b) that person is the legal and physical custodian of the genetic

parent.

- 2) ***By making a pledge (the Parenthood Pledge) to assume parental responsibilities for her or his child that qualified person is presumed to be the legal and physical custodian of his or her child until and unless that presumption is rebutted by clear and convincing evidence.***

These principles can be implemented by using existing prenatal counseling and coordinated services teams during a pregnancy before a child is born and by modifying the birth certification process as follows:

1. ***Activating parenthood planning counseling whenever a person who has a legal and/or physical custodian or a guardian or has been adjudicated as an unfit parent becomes pregnant and chooses to continue the pregnancy to childbirth.***

a) If a mother or father is in the custody of another person, that person will be presumed custodian of the dependent person's child unless she or he declines to acknowledge this responsibility.

(Already grandparents have financial responsibilities for the children of their children without guardianship rights in Wisconsin.¹⁷) This will continue until the mother (father) is qualified for parenthood and makes a parenthood pledge unless that presumption is rebutted by:

- i) adoption of the child,
- ii) Child in Need of Protective Services determination,
- iii) legal determination of incompetence of the parent, or
- iv) the parent is under the long-term custody of the state.

b) If a parent has been adjudicated as unfit, the applicable preemptive child abuse and neglect statute will be followed.

c) If all available and qualified legal and physical custodians decline to accept these responsibilities or if the parent already is under the custody of the state, legal and physical custodianship of the newborn child will be assumed by the state, and an adoption plan will be made for the newborn child prior to birth by the ***parenthood planning counseling team*** by adding a guardian *ad litem* for the unborn child.

2. ***Modifying the Hospital Birth Worksheet to include a parenthood pledge.***

Any person eligible for custody of a newborn will be informed of her or his custodianship duties as part of the documentation of birth. Much as non-marital fathers are now informed about and legally acknowledge their financial support obligations, all persons eligible for custodianship will acknowledge their custodial duties to the child as commonly defined in family courts:

- Provide or arrange for sufficient income for the child's clothing, shelter, education, health care, and social and recreational activities.
- Provide the love, security, and emotional support necessary for the healthy development of the child.
- Foster the intellectual, social, and moral development of the child.
- Socialize the child by setting limits and encouraging civil behavior.

- Protect the child from physical, emotional, and social harm.
- Maintain stable family relationships.

The form will include a pledge *“to accept the responsibilities of parenthood for ‘Jane Doe’ and discharge them to the best of my ability.”*

By signing this pledge that person will assume legal and physical custody of the newborn baby.

3. *In the event a mother or father of a newborn child is a person who has a custodian or guardian, the custodian or guardian of that person will sign the pledge.* In the absence of such a person or if the mother or father is under the custody of a state, the newborn baby will be presumed to be without a custodian, and that state will arrange for legal and physical custody of the baby through an adoption plan.
4. *Modifying the birth certificate to include certification of parenthood.*

The birth certificate now certifies that there is a record of a baby’s birth. It also will certify that a mother or father has made a parenthood pledge.

If any custodian subsequently fails to meet the responsibilities of parenthood – as he or she pledged to do – by substantiated child abuse and/or neglect, that person would be in default of the parenthood pledge contract.

Implementing a Parenthood Pledge in Wisconsin

Wisconsin is strategically placed to implement *parenthood planning counseling* through Planned Parenthood Counseling, Adoption Awareness Counseling, Prenatal Care Coordination, and prenatal health care services.

The preventive mission of Collaborative Systems of Care makes it possible to bring expectant mothers and their families involved in other systems into Coordinated Services Teams that include child welfare.

Wisconsin Statute Chapter 48 already provides for jurisdiction over children alleged to be in need of protection or services through 48.13 (1) “for any child without a parent.” By defining “parent” as any genetic mother or father who is not under the legal and physical custody or guardianship of another person or the state, newborns of those mothers and fathers who are under such custody or guardianship do not have a “parent.”

Chapter 48.135 (1) can be modified to bring expectant mothers under jurisdiction of the court under Chapter 51 if they do not qualify under 48.13 (1) as a “parent.”

Societal expectations of parenthood and the Parenthood Pledge can be added to existing birth worksheets. It already exists in effect for unmarried fathers in the Voluntary Paternity Acknowledgement form.

The Wisconsin Vital Records Office of the Division of Public Health of the Department of Health Services would certify that the parenthood pledge was made on the birth certificate as it now certifies a record of a child’s birth has been submitted to the Office.

A Call to Action

One-hundred-and-thirty-five years of the "child saver" movement that began with the Society for the Prevention of Cruelty to Children have been productive only when the movement has resulted in statutory actions. Examples are treating children as juveniles in courts; mandatory education; child abuse and neglect statutes; the "best interests" standard for minors; family support policies; adoption facilitation; and, most recently, establishing different outcomes for minors convicted in adult courts. Still, even some of these actions presumably on their behalf have had adverse effects on children.¹⁸

Absent a fundamental commitment to the rights of newborn babies, efforts to protect children have not prevented the current unconscionable plight of our children. If we do not set a basic standard for genetic parenthood – the capacity to be a legal and physical custodian of another person – we will continue to neglect and fail our most vulnerable citizens: newborn babies. The short- and long-term devastating consequences of this failure are evident in the current state of our nation.

Child advocacy organizations and state child welfare agencies have an obligation to call public attention to the connection between newborns without competent parents and our social problems and to potential solutions for this situation. The Children's Defense Fund is doing this through its *Cradle to Prison Pipeline Report*.¹⁹ We certainly need to improve our schools, but the more important need is to strengthen our nation's families so that children are prepared to learn in school and are supported in doing so.

Whereas the traditional prevention response to child maltreatment aims to prevent a recurrence once it has already taken place, the child welfare system must focus on preventing maltreatment from occurring at all.²⁰ The urgency to act preventively before birth stems from the extreme vulnerability of newborns and from the crucial importance within the first months of life for children's development to form secure attachment bonds to permanent, competent parents. Adoption immediately after birth does not disrupt a family relationship. Newborns have not yet established a relationship with their genetic mothers and fathers to be maintained. It is a misnomer to characterize efforts to rehabilitate unfit birth mothers of newborns as "reunification."

If we would honor the right of all of our newborn citizens to have competent parents, we would take a giant step toward fulfilling the basic civil rights of all children in the United States to not be neglected or abused and to have the opportunity to succeed in life. In the process, we would take a giant step toward improving the productivity of our nation.

Conclusion

Our failure to set standards for parenthood makes it seem like Americans do not care about other peoples' children. It seems like the only children that matter to us are our own.

Wisconsin Cares believes that most Americans do have compassion for children and are willing to help them. We doubt that anyone would rationally

oppose anything that would prevent school failures and subsequent crime and welfare dependency. If fully aware of the facts, we believe most Americans would favor action to correct the present situation.

We especially need to reduce costly government involvement in family life. We can do this by setting a simple and straightforward standard for parenthood. Since parenthood and parental rights are based on the legal and physical custody of a child, a person who requires a custodian or a guardian cannot be the custodian of another person. Applying this standard would mean that at birth every baby would have a legal and physical custodian – usually the genetic or adoptive parent. If a mother or father has a custodian or guardian oneself, a temporary (usually a relative) or permanent (adoptive) legal and physical custodian would be arranged by a *parenthood planning counseling team*.

The Humane Society only awards the custody of animals to adults who are able to care for them. We should at the very least apply the same criterion to newborn babies.

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8. Wisconsin Statutes 48.135(1) and 48.13(3m): If a child alleged to be in need of protection or services or a child expectant mother of an unborn child alleged to be in need of protection or services is before the court and it appears that the child or child expectant mother is developmentally disabled, mentally ill or drug dependent or suffers from alcoholism, the court may proceed under ch 52 or 55. If an adult expectant mother of an unborn child alleged to be in need of protection or services is before the court and it appears that the adult expectant mother is drug dependent or suffers from alcoholism, the court may proceed under ch. 51.
9. Wisconsin Statute 46.51(1): From the amounts distributed under s. 46.40(1) for services for children and families, the department shall distribute funds to eligible counties for services related to child abuse and neglect and to unborn child abuse, including child abuse and neglect and unborn child abuse prevention, investigation and treatment.
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