

## DECLARATION OF MY RIGHT TO PARENT

I, \_\_\_\_\_, declare by this affidavit that I have a constitutionally protected right to parent my child and I have a constitutional right of privacy regarding the affairs of my family and the medical treatment for myself and my children.

The United States Supreme Court has held that parents have a constitutionally protected liberty interest in the care, custody and management of their children. *See Santosky v. Kramer*, 455 U.S. 745, 758-59, 102 S. Ct. 1388, 1397. "As a general rule, therefore, before parents may be deprived of the care, custody or management of their children without their consent, due process—ordinarily a court proceeding resulting in an order permitting removal—must be accorded to them." *Tenenbaum v. Williams*, 193 F.3d 581, 593 (2d Cir. 1999) (citing *Stanley v. Illinois*, 405 U.S. 645, 649, 92 S. Ct. 1208, 1212). "At the same time, however, the State has a profound interest in the welfare of the child, particularly his or her being sheltered from abuse." *Id.* at 593-94. Consequently, courts have recognized that a state may constitutionally remove children **threatened with imminent harm** when it is justified by emergency circumstances. *See, e.g., Mabe v. San Bernardino County, Dep't of Pub. Soc. Servs.*, 237 F.3d 1101, 1106 (9th Cir. 2001); *Brokaw v. Mercer County*, 235 F.3d 1000, 1020 (7th Cir. 2000); *Tenenbaum*, 193 F.3d at 593-94; *Hollingsworth v. Hill*, 110 F.3d 733, 739 (10th

Cir. 1997); *Jordan by Jordan v. Jackson*, 15 F.3d 333, 346 (4th Cir. 1994); *United States v. Edmondson*, 791 F.2d 1512, 1514 (11th Cir. 1986) (allowing warrantless search and seizure in criminal cases where exigent circumstances exist).

Parents have a fundamental right to the custody of their children, and the deprivation of that right effects a cognizable injury. *See Santosky v. Kramer*, 455 U.S. 745, 758-59, 102 S. Ct. 1388, 1397.

In the protection of this fundamental right to parent, I should be afforded at a minimum the constitutional protections afforded to a criminal defendant who faces the loss of his fundamental loss of liberty in a criminal proceeding. The permanent risk of loss of the relationship of parent-child is no less devastating to both me and my child than the risk of incarceration. Criminals who face incarceration are at least provided a determinative sentence for punishment of their crimes and the ability to rehabilitate no matter the length of sentence.

The rights afforded to me should be no less.

Therefore, I should have the following:

The right of due process prior to the deprivation of my rights.

The right to a jury trial.

The right to face and cross-examine all accusers, including those reporting abuse or neglect to the state agency for child welfare.

The right to be provided all evidence, both inculpatory and exculpatory, that is in the hands of those who seek to destroy my relationship with my child, that

includes, all state employees, all court appointed Guardian ad Litem, volunteer advocates, and potential witnesses known to the prosecuting agency (or persons).

The right to choose the caretaker for my child, including relatives or friends, during the pendency of the prosecution.

The right to choose an alternative 'parent' for my child, if the state so decides that that my inability to parents poses an immediate and irreparable risk of harm.

The right to have competent appointed counsel who will demand due process and who is trained to protect the rights of parents.

The right to bring an action post termination if I so feel that my counsel has been so incompetent as my constitutional rights were offended (such as a post-conviction relief petition provided for criminal defendants).

An absolute right to appeal.

The right to rehabilitate any shortcomings that I may have as a parent with the assistance of professionals of my choosing, with a right to access to the funds allowed for these services under Federal Funding grants.

The right to have the prosecutors of an action against be compelled to prove each and every element beyond a reasonable doubt. (and not clear and convincing evidence)

FURTHER, I declare that these rights are inalienable and endowed by our Creator. As our Declaration of Independence stated in 1776, *“That to secure these rights, Governments are instituted among Men, deriving their just powers from the*

*consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.*

It is my declaration that the reliance and use of publicly funded mechanisms intended to destroy my family relationships forever can only come from a despotic government.

I DECLARE THESE RIGHTS.

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Signed

Address:

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