

1 SJR65
2 128577-1
3 By Senators Brewbaker, Beason, Sanford, McGill, Bussman,
4 Taylor, Scofield, Blackwell, Allen, Williams, Reed, Ward,
5 Waggoner, Holtzclaw, Whatley, and Pittman
6 RFD:
7 First Read: 05-APR-11

URGING THE MEMBERS OF THE UNITED STATES SENATE TO
OPPOSE RATIFICATION OF THE UNITED NATIONS CONVENTION ON THE
RIGHTS OF THE CHILD.

WHEREAS, the right of the parents to direct the
upbringing and education of their children is a fundamental
right protected by the Constitution of the United States and
the State of Alabama; and

WHEREAS, our nation has long pursued the path of
relying first and foremost on parents to meet the real and
necessary needs of children; and

WHEREAS, the United States Supreme Court in
Wisconsin v. Yoder, 406 U.S. 205 (1972), has held that "This
primary role of the parents in the upbringing of their
children is now established beyond debate as an enduring
American tradition"; and

WHEREAS, children are best served by the continued
practice of requiring proper proof of harm before the
government intervenes in the family to override parental
decisions in any sphere of the child's upbringing; and

1 WHEREAS, certain members of the United States Senate
2 have called upon the Secretary of State and the President to
3 forward to them the United Nations Convention on the Rights of
4 the Child for ratification; and

5 WHEREAS, Article VI of the Constitution of the
6 United States provides that treaties that are ratified by the
7 United States Senate become a part of the "supreme law of the
8 land" and that state laws and constitutions are subservient to
9 the treaties; and

10 WHEREAS, virtually all law that applies to children
11 and families in Alabama is state law; and

12 WHEREAS, by virtue of the federal Supremacy Clause
13 all Alabama laws regarding children would be overridden if
14 there is a conflict with this treaty if ratified; and

15 WHEREAS, the Congress of the United States would
16 acquire primary jurisdiction to legislate to meet our nation's
17 legal obligation to comply with the treaty if ratified,
18 thereby shifting from Alabama and her sister states to the
19 Congress of the United States powers not formerly delegated
20 which are currently reserved to the states under the Tenth
21 Amendment to the United States Constitution; and

22 WHEREAS, the treaty is subject to the general rule
23 of international law that "custom" is binding law in many
24 circumstances, rendering the text of a treaty as an unreliable
25 guide to its future meaning; and

26 WHEREAS, the United Nations Committee on the Rights
27 of the Child at periodic intervals publishes "General

1 Comments" which are substantive additions to the obligations
2 of state parties already under the Convention; and

3 WHEREAS, the United Nations Committee on the Rights
4 of the Child makes regular determinations of the meaning and
5 the application of the treaty, and it would hold these
6 interpretations to be binding on the Congress of the United
7 States and the courts of the United States when interpreting
8 and enforcing the treaty; and

9 WHEREAS, this represents a wholesale abandonment of
10 the ultimate sovereignty of the United States on matters
11 within the scope of the treaty; and

12 WHEREAS, this abandonment violates the core
13 principle of our self-government: To-wit, only American
14 Legislatures and the people themselves have the moral
15 authority to make law for America; and

16 WHEREAS, the substance of the treaty as interpreted
17 and applied by this official United Nations tribunal:

18 (1) Bans all corporal punishment, including
19 reasonable spanking by parents.

20 (2) Gives the government review authority of a broad
21 scope of parental decisions without the necessity of proving
22 that the parents are unfit or have harmed the child.

23 (3) Allows children and government to override
24 reasonable and ordinary decisions concerning the religious
25 upbringing of the child.

1 (4) Allows the government the ability to review any
2 parental decision concerning the education of their child,
3 even if that decision fully complies with the law of Alabama.

4 (5) Requires a level of socialized spending programs
5 for the supposed needs of children, which in too many cases
6 simply employ more government workers, that would bankrupt any
7 American state.

8 (6) Grants to children a legally enforceable right
9 to leisure and many other particular "rights" that are
10 contrary to American traditions and common sense; now
11 therefore,

12 BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH
13 HOUSES THEREOF CONCURRING, That State of Alabama hereby
14 condemns the United Nations Convention on the Rights of the
15 Child.

16 BE IT FURTHER RESOLVED, That the State of Alabama
17 urges the United States Senate to reject its ratification.

18 BE IT FURTHER RESOLVED, That a copy of this
19 resolution be provided to each member of the United States
20 Senate.