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NORTHERN ILLINOIS UNIVERSITY
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C O N T E N T S

NOTES AND COMMENTS

**Bridging the Gap Between Immigration Detainment and Parental Rights: A
Constitutional Consideration of Migrant Children Separation**

Kelsey Burge 1

Federal immigration law does not completely comport with state family law because some federal legislation, such as the Adoption and Safe Families Act (ASFA), requires states to initiate parental custody proceedings due to children being separated from their parents for a statutorily defined period, even when parents are detained in immigration centers with very uncertain timelines. Parental custody proceedings involve factors that each state has authority to enact evaluating parental fitness; however, the factors may be implicitly or explicitly biased toward migrant parents, resulting in migrant parental custody being terminated unfairly. While Trump’s zero-tolerance policy enacted in 2018 sparked outrage because migrant families were separated at the border, the disconnect between federal and state law contributed to the family separations being rendered legal. Even though Trump issued an Executive Order to end family separations at the border, a remedy is still needed to prevent parental custody from being terminated when parents are in U.S. immigration detention centers because such separations and terminations could raise serious due process concerns. The United States can begin to decrease due process implications by creating and implementing a process to adequately handle migrants and refugees who present themselves at the border with children by utilizing the general framework of the European Union’s refugee plan. Amending the current interplay between federal immigration law and state family law not only impacts the United States because due process is a central cornerstone of the U.S. justice system, but the United States also serves as a moral leader of the world and the reputation of the United States could be harmed by ignoring the human rights concerns that due process violations may raise when separating families.

Kennedy v. Bremerton School District: A Fumble the Supreme Court Needs to Recover.

Emily C. Neely 38

Many people support one or the other: freedom of religion or freedom from religion. Current Supreme Court case law favors the protection of students’ rights under the Establishment Clause. However, First Amendment free speech rights for public officials do not enjoy the same protection. Previous notes seek to affirm the constitutionality of restricting the speech of public officials in deference to the Establishment Clause. This Note differs from those, however, by acknowledging the prominent role that the Establishment Clause plays in protecting student rights, but also advocating for greater First Amendment protection for public officials.

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*Whitni Hart and Katlin Kiefer are hereby recognized for their superb efforts and talents in the editing process and are thus named Best Cite Check Performers for Volume 11, Number 1.

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Special thanks to our dedicated staff and faculty members who continue to support the journal and serve as mentors year after year. We appreciate all you do.