

In an effort to counteract a steep increase in juvenile crime, a state enacted a law terminating the parental rights of any state resident whose child under 16 years of age is convicted of a violent crime in the state. The law directs the state juvenile court to enter a termination order in such a case after the parent has been afforded notice and an opportunity for a hearing at which the only relevant issues are the age of the child and whether the child has been convicted of a violent crime in the state.

Is the state law constitutional?

- A. No, because the law is not narrowly tailored to serve a substantial state interest.
- B. No, because the law is not necessary to serve a compelling state interest.
- C. Yes, because a state's police power authorizes it to punish criminal behavior with appropriate sanctions.
- D. Yes, because the law is rationally related to a legitimate state interest.

## Explanation:

### Fundamental rights (First VIP)

(strict scrutiny)

- **First** Amendment freedoms
- **Voting**
- **Interstate travel**
- **Privacy**
  - Marriage / family
  - Parental rights
  - Sexual acts
  - Contraceptives

State laws that substantially impact a **fundamental right**—including parents' right to direct the upbringing of their children—can be challenged under the **Fourteenth Amendment** based on either:

- **substantive due process** – applies when a law affects **all people** (eg, everyone's fundamental parental rights) *or*
- **equal protection** – applies when a law affects a **specific class** of persons (eg, parents with children under 16 years of age).

Fundamental rights are highly protected under both clauses, and any law that substantially impacts these rights is unconstitutional unless it survives **strict scrutiny**. This standard of constitutional review requires the **state** to perform the nearly impossible task of showing that the **law is necessary** to serve a **compelling state interest**.

Here, the state law is subject to strict scrutiny because it terminates the fundamental parental rights of any resident whose child under 16 years of age is convicted of a violent crime. The law addresses the state's compelling interest in counteracting juvenile crime. But the law is not *necessary* to serve that interest because the state can do so with less restrictive measures—eg, creating diversion programs for at-risk youths. Therefore, the law is unconstitutional.

**(Choice A)** There is no standard of constitutional review that requires a law to be narrowly tailored to serve a *substantial* state interest.

**(Choice C)** The Tenth Amendment gives states any power that the Constitution does not expressly grant to the federal government—including the police power to punish criminal behavior with appropriate sanctions. But these sanctions must comport with other constitutional provisions—including the Fourteenth Amendment.

**(Choice D)** Most due process and equal protection challenges are subject to rational basis scrutiny, which requires the challenger to show that the law has no rational relation to any legitimate state interest. But when a law substantially impacts a fundamental right (as seen here), strict scrutiny is required.

**Educational objective:**

Under the Fourteenth Amendment due process and equal protection clauses, state laws that substantially impact a fundamental right (eg, parental rights) must satisfy strict scrutiny—ie, the law must be necessary to serve a compelling state interest.

**References**

- Meyer v. Nebraska, 262 U.S. 390, 399 (1923) (establishing parents' fundamental right to direct their children's upbringing).
- Troxel v. Granville, 530 U.S. 57, 65–66 (2000) (plurality opinion) (explaining that parents have a fundamental right "to make decisions concerning the care, custody, and control of their children").

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