

A state statute permits the termination of parental rights when the state proves by a preponderance of the evidence that a child has been a victim of neglect.

A state agency initiated a proceeding in state court to terminate a woman's parental rights based on allegations that she repeatedly abused her child. The agency provided the woman with adequate notice of the hearing. At the hearing, the attorneys for the agency and the woman presented evidence, examined witnesses, and made opening and closing statements. The court found by a preponderance of the evidence that the child was a victim of neglect and entered an order terminating the woman's parental rights.

The woman has appealed the court's order, alleging that the termination of her parental rights was unconstitutional.

How should the appellate court rule in this case?

- A. Affirm the order, because a court can terminate parental rights by using a preponderance-of-the-evidence burden of proof.
- B. Affirm the order, because the state's interest in the child's welfare outweighs the woman's interest in the burden of proof used at the proceeding.
- C. Reverse the order, because the statute denies the woman a right of national citizenship.
- D. Reverse the order, because the statute violates due process.

Explanation:

A state must provide **procedural due process** before depriving an individual of a **life, liberty, or property interest** (eg, parental rights). This requires that the government provide **reasonable notice** and a **meaningful opportunity to be heard** before a neutral decision-maker—as was provided to the woman here. Procedural due process also requires that the proper **burden of proof** be applied at such hearings. To determine the proper burden (and any other process due), the court must **balance three factors**:

- The **private interest** affected by the deprivation
- The **risk of erroneous deprivation** of that interest through current procedures and the probable **value of additional** or **substitute procedural safeguards**
- The **government's interest**, including the fiscal and administrative burdens that other safeguards would entail

Here, the woman has an interest in maintaining her parental rights, while the state has an interest in ensuring the child's welfare. However, there is a high risk of erroneously terminating parental rights since the state need only prove its case by a preponderance of the evidence. This risk can be mitigated by requiring the state to satisfy a higher burden of proof (eg, clear and convincing evidence). Therefore, the statute violates due process, and the appellate court should reverse the order terminating the woman's parental rights **(Choices A & B)**.

(Choice C) The Fourteenth Amendment privileges or immunities clause prohibits states from denying citizens a **right of national citizenship**, which does not include parental rights.

Educational objective:

A state seeking to terminate parental rights must prove its case by at least clear and convincing evidence to comply with procedural due process.

References

- *Santosky v. Kramer*, 455 U.S. 745, 768–69 (1982) (holding that the Fourteenth Amendment due process clause requires states to prove their case by at least clear and convincing evidence when terminating parental rights).
- *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) (listing the three factors used to assess compliance with procedural due process).

Procedural due process
(*Mathews v. Eldridge* balancing test)

