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SPECIAL REPORT

The Colorado Parental Rights Amendment: How and Why It Failed

By Patricia Donovan

In November 1996, by a margin of 57% to 43%,¹ Colorado voters soundly rejected Amendment 17, a proposed change to the state constitution giving parents the right "to direct and control the upbringing, education, values and discipline of their children."² The outcome was a stunning turnaround in public opinion: Just two months earlier, polls indicated that 76% of registered voters supported the measure.³

The defeat was a blow to conservative Christian groups, which had confidently predicted that victory in Colorado would be followed by the adoption of such "parental rights" measures in other states. "We expect the amendment to pass here in November, sending a strong message to other states and energizing the [parental rights] movement across the country," declared Greg D. Erken, executive director of the Virginia-based group Of The People, which almost single-handedly financed the amendment campaign.⁴ Of The People, along with such groups as the Christian Coalition, the Eagle Forum and the Traditional Values Coalition, have advocated a parental rights amendment as a way to reverse what they consider unwarranted and unacceptable intrusion by public school systems and other government bureaucracies into family life and childrearing.

Since 1994, some form of parental rights legislation has been introduced in more than half of the states,⁵ but Colorado was the first—and thus far the only—state where the measure was placed directly before the voters. In part, the amendment's defeat was the result of a well-organized, highly disciplined opposition campaign mounted by a broad coalition of medical, civic, religious, prochoice, education and legal groups. This campaign succeeded in convincing voters that the amendment's seemingly innocuous language would, in practice, have serious unintended consequences, such as nullifying laws allowing minors to obtain confidential reproductive health care and other sensitive health services, disrupting school sex education and AIDS prevention activities, and impeding the removal of children from abusive homes.

However, the outcome also appears to reflect a failure on the part of the amendment's supporters to mount a serious campaign. "They thought Of The People's deep pockets

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and the public's perception that parents have rights were all it would take,"⁶ observes Patrick Steadman, deputy campaign manager for Protect Our Children, the coalition that opposed the amendment. Steadman and others believe that the race might have been much closer if the proponents had mounted an effective campaign.

This article, which is based in part on interviews conducted early in 1997 with key members of Protect Our Children, describes the strategies and tactics that opponents to the parental rights amendment used in their campaign to defeat it. Given that activists in other states have formulated similar measures (a parental rights bill similar to the Colorado amendment was subsequently defeated in the Virginia legislature), ballot initiatives and legislative proposals along these lines may resurface in other states in upcoming years.

BACKGROUND

Proponents of the parental rights amendment contend that as far back as the 1920s, the U.S. Supreme Court recognized the primacy of parental rights, but that lower courts have often failed to enforce those rights. As recent examples of this failure, proponents cite court rejections of parental efforts to prevent schools from distributing condoms to students and from requiring students to attend an AIDS awareness assembly.

The parents' rights movement received a boost in 1993 when the New York City schools chancellor resigned following the announcement of his controversial plan to allow condom distribution in some city high schools and to use texts for young children that encouraged tolerance for families headed by gay couples. "It impressed upon us the potential of the parental movement," said Jeffrey Bell, an antiabortion activist who established Of The People in the wake of the chancellor's resignation.⁷

In 1995, the parental rights amendment became a key plank in the Christian Coalition's "Contract for America's Families;" in the following year, it was introduced in both houses of Congress. Although hearings were held, neither house voted on the measure, which died when the congressional session ended. Both of its sponsors, Rep. Steve Largent (R-Okla.) and Sen. Charles Grassley (R-Iowa), have indicated they intend to reintroduce the legislation in 1997, although neither had done so as of June 15.

In early 1996, with parental rights bills stalled in several state legislatures, Bell and others at Of The People concluded that a ballot initiative victory would give the parental rights movement needed momentum.⁸ The group chose Colorado because conservatives have had success there in the past with ballot initiatives, including amendments to cut off Medicaid coverage of abortion and to restrict communities' ability to pass laws protecting the rights of homosexuals.

Of The People provided the funding to mount a petition drive, and in September 1996, the Coalition for Parental Responsibility submitted some 83,000 signatures, nearly 30,000 more than was required, to place the parental rights amendment on the November 5 ballot.⁹ Shortly thereafter, a poll by *The Rocky Mountain News* indicated that three-quarters of Colorado voters supported the measure.

THE OPPOSITION CAMPAIGN

"The poll provided a realistic picture of where voters would have been absent our

campaign," says Michael Hudson, executive director of the Colorado chapter of People for the American Way, and a key member of Protect Our Children.¹⁰ Hudson and others say planning for the campaign began nearly a year before the election. "They assumed the amendment would be on the ballot, and took it very seriously," reports campaign deputy director Steadman. "They had seen many of these folks before and knew what they were capable of."

The campaign mounted by Protect Our Children has been widely praised for its organization and discipline. Its day-to-day operation was directed by campaign manager Fofi Mendez, a private legislative consultant hired by the campaign's steering committee. This committee consisted of representatives from 12 groups, including People for the American Way, the American Civil Liberties Union (ACLU) of Colorado, the Colorado Education Association, the Colorado chapter of the National Abortion Rights Action League, the League of Women Voters, Equality Colorado, the Colorado Association of Family and Children Services, Planned Parenthood of the Rocky Mountains, Adoption Exchange, the Colorado Library Association, the National Council of Jewish Women and Families First (a shelter for abused children).

Members of the steering committee served on one of three committees: outreach, which focused on recruiting organizations and key public officials to join the coalition; communications, which was responsible for developing the campaign's message and overseeing its media coverage and speakers' bureau; and fundraising.

A leadership council, which was designed to highlight the amendment's potentially far-reaching impact, was also formed. By Election Day, it consisted of representatives from some 150 organizations, including such diverse groups as the Colorado Association of School Boards, the Colorado District Attorneys Council, the Colorado Council of Churches, the Colorado Academy of Family Physicians and the Colorado Women's Political Caucus. Their chief responsibility was to educate their own members about the implications of passing the amendment.

In contrast to Protect Our Children, the supporters of the parental rights amendment appear to have waged an ineffectual campaign that had little organization or visibility. During the course of the brief campaign, the Coalition for Parental Responsibility had three executive directors. The Coalition held few press conferences, its representatives often failed to show up for public forums and it did little grassroots organizing.

DEVELOPING A MESSAGE

Immediately upon becoming campaign manager, Mendez urged the campaign to conduct a detailed statewide poll of voters' reactions to the amendment. "It was one of the smartest things we did," says deputy campaign manager Steadman, "because it told us what issues resonated with voters."

The poll confirmed that many parents felt schools and other government agencies were usurping their parental rights, Steadman reports. But the poll also found that voters believed that giving parents an absolute right to control the education, values and discipline of their children would undermine the ability of public officials to prosecute parents who abused their children and also result in disruptive lawsuits against schools and other agencies. The public also worried that the amendment would

complicate adoption proceedings and restrict teenagers' access to confidential medical services. Finally, the poll indicated that the campaign could win almost 60% of the vote if it focused on certain themes.

Armed with these findings, Protect Our Children officials, working with the pollster and a media consultant, developed a message consisting of four major themes:

- The amendment was dangerous, because children would be left in abusive homes and teenagers would be prevented from obtaining information and services that would help them avoid pregnancy, STDs and abortion.
- It was unnecessary, because parents already have the right to raise their children as they see fit.
- Although attractive on paper, in practice it would turn public schools into ideological battlegrounds for parents with opposing values and make adoptions more difficult because adoptive placements could be challenged in court.
- And it was so vague that it would result in a flood of litigation initiated by angry parents, at taxpayers' expense, against anyone working with children, including teachers, librarians, social workers and counselors.

The objective, says James Joy, executive director of the Colorado ACLU, "was to get across the point that you couldn't give a license to families to abuse kids or mess up education."¹¹ Notes Steadman, "the message was believable and easy to understand, and it raised questions about the amendment in people's minds." And, he adds, the amendment opponents "had good spokespeople to drive the message home."

Protect Our Children recruited spokespeople from all parts of the state and required each of them to attend a training session on the campaign's message, to ensure that everyone used the same arguments against the amendment. The strategy worked. "This was probably the best, most disciplined coalition effort I have ever seen," says Michael Hudson. Campaign manager Fofi Mendez agrees: "The message discipline was phenomenal."¹²

The Coalition for Parental Responsibility was much less successful in presenting a clear, persuasive message about the need to amend the state's constitution to guarantee parents' freedom to raise their children. "They thought the amendment was a 'slam dunk,'" Steadman says. "Who could be against parental rights?"

Many of the proponents' arguments centered on sexual issues. They frequently cited distribution of condoms in schools, teenagers' access to confidential abortion services and discussion of homosexuality in sex education classes as reasons why the amendment was necessary. Campaign literature decried the emotional harm suffered by a child "subjected to explicit and debasing sex education in public schools at a tender age. Her parents should be able to protect her right to childhood innocence."¹³

The same flyer also contended that a child is "psychologically abused when a school 'survey' confronts him at a delicate age with the tragedy of suicide and suggests...that it is normal to have sex while still very young. His parents must have the right to protect him from government-induced confusion, anxiety and doubt." Mendez observes, however, that despite such emotional claims, proponents were never able to

communicate their message of "no government interference" in a way that galvanized people to support the amendment.

To its later regret, the Coalition never effectively countered the charge that the parental rights amendment would make it difficult for law enforcement officials to investigate and prosecute suspected child abuse and to protect children in abusive families. "It was more potent as a charge than I would have predicted," acknowledged Of the People's Bell.¹⁴ "The biggest single factor [in the loss] was the ability of the other side to get across their message about child abuse."¹⁵

GRASSROOTS ORGANIZING

There was a stark, and surprising, difference between the opposing campaigns in their effort to mobilize voters at the local level. Unlike previous initiative campaigns in Colorado, when conservatives effectively used fundamentalist churches to get their message out and to raise money, the Coalition for Parental Responsibility paid little attention to grassroots organizing. "We were astounded by what they were not doing," reports Steadman. "There was no attempt to pass the hat in church," notes Katie Reinisch, vice president of public affairs at Planned Parenthood of the Rocky Mountains.¹⁶

Nor did the Coalition for Parental Responsibility have bumper stickers, yard signs or other ways of showing support for its cause; all of its money went into television advertising. As a result, the coalition had no visible presence in the state, notes Reinisch, which reinforced the perception that the amendment was not a "home-grown initiative."

Protect Our Children, by contrast, focused heavily on grassroots organizing. In addition to establishing local coalitions of volunteers throughout the state to serve as spokespeople, the campaign made ample use of yard signs, bumper stickers, literature drops and phone banks. "These make a difference when the other side is invisible," Reinisch points out.

FUNDRAISING

More than 90% of contributions to the Coalition for Parental Responsibility came from conservative groups based outside of Colorado; of the total \$484,090 donated, about \$367,000 came from Of The People.¹⁷ It was "a blatant hauling in of outside money," declared Hudson, of People for the American Way.¹⁸

The extent of outside financial support for the amendment was a major public relations problem for the Coalition, opening up the campaign to charges of carpetbagging. "Colorado voters resented the [money] that poured into the state from the religious right to try to buy our votes," says Governor Roy Romer.¹⁹

Of slightly more than \$368,000 raised by Protect Our Children,²⁰ most of it came from inside Colorado; in addition, as campaign leaders were eager to point out, much of this total came in small amounts from individual donors.

Protect Our Children had difficulty raising money early in the campaign, however, in part because of a lack of prominent financial backers or experienced fundraisers on its fundraising committee. In addition, early polls showing the amendment with a wide

lead discouraged donors from contributing to what appeared to be a hopeless cause. Finally, because 1996 was a presidential election year, major donors and philanthropic committees would not give money to Protect Our Children until they had given the maximum permissible to electoral campaigns.

MEDIA

Media attention to the amendment campaign also appears to have had an important influence on the outcome. First, the influx of outside money attracted widespread coverage by the national media, which provided a bonanza of free media coverage for Protect Our Children. Amendment opponents also benefited from overwhelming local editorial support. Every major newspaper in the state came out against the parental rights amendment. Protect Our Children had worked hard for this outcome, having sent several local representatives to meet with newspaper editorial boards.

Protect Our Children officials also believe that their advertising was more effective than that of their opponent. They spent about \$210,000 on media ads,²¹ mostly on television. Protect Our Children ran only one television commercial, a black-and-white ad depicting a frightened young boy in front of a window, with sounds of violence and shouting in the background. If the amendment passed, the narrator suggested, that boy and many other children might never get out of abusive homes; moreover, parents charged with abuse could use the measure as a defense by citing the right to "discipline" their children. The commercial also charged that adoptions would become more difficult, stranding children in foster care. "The amendment may sound harmless, but it's not," the ad warned.

Protect Our Children also ran a radio ad in the Denver metropolitan area that focused on child abuse, as well as on the likelihood that the amendment would generate countless costly lawsuits.

Amendment proponents' principal advertisement was widely perceived as ineffective. It showed a mother and her young son waiting for the school bus. The boy asks her if she'll always be there for him and she replies "yes." The ad ended with the message to "vote yes on Amendment 17." One analysis concludes: "It was weird—no explanation of the issue, [or] why [the amendment] was needed."²² Late in the campaign, the Coalition also aired a second ad, using a "talking head" format, in which a former U.S. attorney for Colorado argued that the amendment would not make it more difficult to investigate and prosecute child abuse cases.

THE TURNING POINT

Protect Our Children officials believe that the turning point in the campaign came in mid-October, when William Armstrong, a former U.S. representative and senator from Colorado and a well-known conservative, publicly expressed his opposition to the amendment. The measure's backers were his "good friends," Armstrong said, but they had failed to explain why the amendment was necessary. Armstrong said he agreed with those who criticized the state legislature for rejecting increased parental choice in sex education, and he shared their concerns about the psychological testing of school children and the distribution of condoms in schools. But these "don't add up to a constitutional amendment, in my opinion."

Armstrong also expressed his concern that the amendment "could end up providing a safe harbor for parents who are shirking their responsibility or actually hurting their own children," and could also introduce an element of uncertainty into adoption procedures.²³

"A lot of conservatives who support parental rights paused and thought about Amendment 17 because of Armstrong's statement," noted Chuck Berry, the Republican speaker of the Colorado House of Representatives.²⁴ "It was the nail in the coffin," declared James Joy of the Colorado ACLU.

CONCLUSIONS

Many of those who collaborated in opposing the amendment share the views of Planned Parenthood's Reinisch, who concludes that Protect Our Children ran "an incredibly fine campaign." The campaign manager agrees: "We had a clear message, [we had] a plan to deliver that message and we organized local communities to be our messengers."²⁵

One of the greatest strengths of Protect Our Children's campaign, officials believe, was the formation of a broad-based coalition that successfully put aside organizational agendas and framed issues in personal terms—for example, describing how the amendment would affect parents or teachers or doctors. "We successfully avoided being nailed as Colorado Education Association, Planned Parenthood or People for the American Way liberals," observes Hudson.

Protect Our Children officials say the results confirm the importance of early polling to find out where voters stand on an issue and what arguments resonate with them. Polling is expensive, they acknowledge, but is well worth the money. "One of the greatest factors [in the amendment's defeat] was conducting detailed polling and then using the information to develop persuasive messages," says Mendez. Equally important, she adds, is that no one deviated from that message.

Mendez also believes that it is critical to run a proactive campaign, even if the objective is to persuade people to vote no. Otherwise, she says, "you will be reacting to the message of others." Officials of the anti-amendment campaign also emphasized the importance of their grassroots organizing and their use of regional coalitions to organize local speakers' bureaus, press conferences and get-out-the-vote activities.

If there was a weakness in Protect Our Children's effort, officials say, it was fundraising. Several participants felt that fundraising should have been a higher priority. "We could well have lost because we did not have enough money," says Hudson, who, along with other coalition members, concludes that when setting up a fundraising committee, an initiative campaign needs to recruit prominent people who know how to raise money. In Protect Our Children's case, the lack of sufficient attention to fundraising resulted in not having the money early in the campaign to purchase good air time for its television spot. By the time it did have the funds, the most advantageous time slots had been bought by electoral candidates and by other initiative campaigns.

While officials with Protect Our Children are convinced that they developed the superior message and ran a highly effective grassroots campaign, they also recognize

that the outcome would likely have been much closer if the amendment's proponents had mounted a stronger effort. The proponents' campaign was plagued by staff turnover, the absence of a compelling message and the public relations problems associated with its out-of-state funding. The Coalition appears to have made little use of its obvious resources, such as conservative Christian churches; it failed to reach out to swing voters and to make use of volunteers, and it had almost no campaign literature.

"The fact that they had no organization at all and no local money killed them," concludes Joy of the ACLU. But, he cautions, "they are quite capable of learning....Next time they will work it differently."

It remains to be seen whether there will be a next time. Proponents have vowed to try again, but it appears unlikely that they will return to Colorado soon. Furthermore, the parental rights movement suffered additional setbacks in the wake of the defeat in Colorado. The defeat of a parental rights bill in the Virginia legislature in January 1997 might have been especially bitter, as it occurred in Of The People's home state and after the sponsors had removed the word "discipline" from the bill's language, in hopes of avoiding the charge that the measure would protect child abusers. Even with the change, though, opponents of the legislation successfully used the messages developed in Colorado (including the child abuse argument) to defeat the measure.

The strategies developed by Protect Our Children may also prove useful in future efforts to oppose measures that could restrict reproductive rights. Strategies such as relying on detailed polling to guide message development, building a broad-based coalition, insisting that all campaign spokespeople deliver the same message and emphasizing grassroots organizing can be used regardless of the issue. One participant in the Colorado campaign observed that even in seemingly difficult situations, attempts to protect reproductive rights can succeed "if we take [the challenge] seriously, work in broad coalitions and gather the necessary resources. This includes the electoral arena, where [amendment supporters] thought [they] had the advantage of going directly to the voters."²⁶

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