

A Defense of Parent Licensing

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Abstract

This thesis examines the notion that it is morally permissible for the government to require that people obtain a license before they are allowed to legally raise a child. Though it sounds like a rather shocking idea, I compared the current state of adoption law to show the benefits it has for children and society as a whole. If we use this as a framework for biological parenting law, we can see that a licensing system has the potential for the same benefits. The system would protect children before the fact and place them in homes sooner as to avoid any psychological damage that can come from the foster care system. This paper is an extension of Hugh LaFollette's original philosophical work, "Licensing Parents", which was published in *Philosophy and Public Affairs* in 1980. I use LaFollette's framework to discuss the ways the system would work in practice and to respond to various counterarguments against the idea.

Parent Licensing

Introduction

In this essay I will argue that it is morally permissible for the government to require people to obtain licenses in order to raise a child. Although the concept sounds rather shocking, when we examine the rate of child maltreatment in the United States it is hard to deny that abuse and neglect are major issues. Just three months ago, a man from Denver was convicted when his four sons—ages 2, 4, 5, and 6—were found deprived of sunlight, sharing one mattress that was covered in human and cat feces. Decomposing animals littered the floor around them, they were unable to recognize their names, and they did not know how to eat or recognize normal foods because they were starving [18]. This case is not unusual. Later in my paper I will explore more cases like this one that all took place very recently.

Within our current framework, anyone can become a parent. Considering all the potential harm (to all agents involved), regulating it with a licensing program may not be so outlandish. I will present two arguments for the claim that it is morally acceptable for the government to require parent licenses. Then I will explain how and why parent licensing could work in practice. Finally, I will examine and respond to various counterarguments against the idea.

Positive Argument for Parent Licensing

In the status quo, parenting is considered a right, but it should be considered a privilege. Hugh LaFollette's paper, "Is Licensing Parents Wrong?" suggests that the government should require parent licensing. [9] LaFollette's argument is as follows:

P1: If a practice or act has a potential to cause harm, requires a minimum standard of competency, and there is a reliable way to determine competency, the practice or act should be licensed.

P2: Parenting has the potential to cause harm, requires a minimum standard of competency, and there is a reliable way to determine competency.

Conclusion: Therefore, parenting should be licensed. [9]

All activities that currently require a license meet these three conditions. Consider hunting, boating, driving, practicing law, and practicing medicine. These all require a license because they are potentially very harmful. They all require minimum competency so that we can avoid that potential harm, and they all have reliable systems in place for determining that competency.

To start, I would like to clarify the meaning of the second premise. One may wonder what a minimum standard of competency is. *Qualified* may even be a better term than competent. What I mean by this, and what I think Lafollette meant, is that when a competent practitioner takes part in this activity it is less dangerous than when an incompetent practitioner does. For example, when a competent practitioner drives, he or she poses less danger to others on the road and to him or herself than someone without a license. Parents who are competent are less dangerous to their children than those who are not. I will explain this more in detail in this section. The real issue is figuring out how we can ensure that people are qualified and competent.

First I will focus on driving to show how this existing licensing system falls under the criteria that Lafollette offers in his argument. Driving has the potential to cause harm. According to the United States Census Bureau, 44,900 people die every year in motor vehicle fatalities. Despite the licensing system in place for drivers, 44 people die each year for every 100,000

drivers [17]. One can only fathom how much higher those statistics would be if it were not for the Department of Motor Vehicles and the license requirement. Regardless, driving is an activity that is potentially very harmful.

Driving also requires a minimum standard of competency. For many of us it becomes an activity that feels rather automatic, but we forget what it was like to operate a vehicle for the first time. Knowing the difference between the gas and break pedals and working the steering wheel are not the only things that are necessary for knowing how to operate a vehicle in a way that does not make it a danger to others. For example, when first-time drivers encounter a roundabout it is not clear or natural how they should approach the situation. It takes practice and a minimum standard of competency to understand the way one is to maneuver the roundabout. In addition to the competency that comes from learning how to read road signs and learning driver etiquette, one must have minimum competency; they must be a certain age so that their motor skills can develop enough in order to properly operate a vehicle. The driver's licensing laws stop people with certain disabilities, such as blindness and epilepsy, from driving. It also stops those with certain tendencies such as those to drive drunk or to drive in a reckless manner. This shows that driving requires competency even if that competency isn't inherent in all people. There are analogs to this in parenting. These situations are not always easy to remedy, but people with similar tendencies and issues may not pass the parent-licensing exam. I will touch on this and disabilities more in the "How you see it working in practice" section.

Parenting meets these conditions in the same way. To establish that parenting is definitely a potentially harmful activity, one can examine various studies that show how the maltreatment and abuse of children are very prevalent in America. According to a study titled, *Child Maltreatment*, done by the US Department of Health and Human Services in 2006, "There are

nearly two million cases of substantiated child abuse and neglect in the US each year” [19]. The “Dark Figure of Crime”, or crime that goes unreported in the United States leaves us to speculate as to the actual number of instances that have occurred. MSNBC produced a segment titled, “*Report: Child Deaths Rising*”, which conveyed data that says in the United States, child abuse rates are increasing regularly [16]. According to additional studies by the Department of Health and Human Services, the parents are the perpetrators in 80% of child maltreatment cases. [22] The problems are not only pain, but also death and future harm to the individual. “In the US, more than four children a day die from abuse and neglect” (LaFollette, [9]). Victims are more likely to abuse their own children in the future, and they have a higher likelihood of becoming criminals themselves. Victimization can result in anger, drug use, and more. [17] It is clear that parenting is an activity that is potentially very harmful.

These are all just statistics. To truly grasp the day-to-day harm that children experience we must look further than numbers. I would like to include some details about someone who experienced daily abuse as a child. The story aired on NPR in March 2015 and was titled, “People with Low Incomes Say They Pay A Price In Poor Health.” The account went like this:

NEIGHMOND: And she worries about her 4-year-old granddaughter growing up in this environment. What happens in childhood is a dramatic finding in our poll. People say they believe poverty, a poor diet, inadequate immunization and pollution all contribute to poor health in adulthood. But more than any other reason, people cite child abuse and neglect. And this is what happened to Daniel, who doesn't want his full name used because he worries about his job. His story is heartbreaking. This is an average day, he says, when he was about 8 years old and his sister was 4.

DANIEL: I walked into the dining room of our home. And I heard my sister crying, and my mother just beating her with a big old wooden spoon. And my mother is just wailing on her and telling her she's a dirty little girl and she's a pig.

NEIGHMOND: It turned out Daniel's sister had gone across the street to the grocery store. A man had touched her inappropriately and she told her mother.

DANIEL: I'm standing there. I start to cry and the old man grabs a hold of me and says - my stepfather - and says, well, you want to cry? I'll give you something to cry about. So he starts beating the hell out of me, too. So there we are - that's our Sunday - it's not untypical at all. [14]

We later learn that by the time Daniel turned 12 he was drinking and had started smoking cigarettes as well. Daniel says that on any given day of the week, “he drank 12 to 18 beers, a half bottle of whiskey and smoked two to four packs of cigarettes a day” [13].

Parenting can have immediate negative effects on children as well as effects far into the future.

Second, parenting in a way that is relatively harm-free requires a minimum standard of competence. Anyone who has worked with children or who has children of their own knows that raising a child comes with many daily responsibilities that require time and patience. These include feeding, bathing, clothing, caring for a child when he or she is sick, etc. If a couple is incapable of tending to these basic needs for a child, then they do not meet a minimum standard of competency. Caring for another human life is not easy, and even before the parents will ever have to teach the children valuable lessons or finance their education, they have to be able to complete the basics. The licensing system will have the very important functions of being able

to determine which participants do not know how to feed and bathe children, but will also indicate, more importantly, who is likely to be abusive or neglectful. The test has the potential to alleviate these concerns just like it does in driving. Drivers who indicate that they are prone to rage and/or recklessness will have their license revoked later and those people will lose their right to drive. Once the right is granted it can very well be taken away. This is the case in the parent-licensing system as well.

Finally, there would be a reliable way to determine said competency. I will discuss in more detail how this licensing system would work in practice below. It is important to note that, like any licensing system, the system would have imperfections and would not stop all deaths, maltreatment, neglect or abuse but it would prevent at least some unnecessary suffering and harm.

One may note that we do not require drivers to pass in certain categories such as recklessness, violence, drugs, drinking, etc. These are things that the parent-licensing exam *would* in fact test for. There are actually two categories of competency for driving: knowledge of unfamiliar activity and being able to follow the laws. Some situations may make it difficult for someone to change their ability to drive, for example if they are blind or very visually impaired. It seems like there is a lot of variation between the two activities, their dangers, and what we would test for. Although one may think that this has some bearing on the argument for comparison between the systems, I don't think it does, for a couple of reasons. First, there are analogs for all of the things in the driver's test in parenting. For example, one must have knowledge of unfamiliar activity. Certain information (whether it is safer for a child to sleep on their back or belly) is not common knowledge, but is crucial to know in order to protect the welfare of a child. Some things are harder to change in parenting just like those situations that

are hard to improve on so that one can drive. For example, it is not easy to acquire a license if one has a serious drug addiction, and addiction is not something that is easy to change. In order to train for competency the way that we train drivers through the permit/licensing system, we can train parents. Training is not necessary, but can help if there is any concern (see more in the “How you see it working in practice” section).

As a transition to my next argument, I would like to discuss how this licensing system could fare better than other already existing systems. To really know whether a licensing system is beneficial and helping society, we would have to know what the society would be like without that system. Unfortunately, there are no statistics or data that reveal what a world would be like without a driver’s licensing system. In addition, it is unclear whether we can know if rates of damage have decreased as a result of other licensing systems such as those that are in place for boating, hunting, practicing medicine, and practicing law. The best way to show that these are necessary systems is to examine the potential harm they do to society and the potential benefit that we can gain from putting them in place. With the parent licensing system, we already have the hard facts we need that will show how this is going to be successful. We can compare adoption statistics and laws to the current state of biological parenting. In other words, this supporting information would be so hard to find for other systems, but we have the analogous statistics and information currently available to us thanks to adoption laws.

In the one system where we do actually have hard data to support a licensing system, the system does not exist. Existing licensing systems do not have these crucial statistics that enable us to confidently say that they are making the world a safer, better place. Regardless, we still accept them. With parent licensing, we *do* already have those crucial statistics from the adoption

system, meaning we should strongly consider the facts and make a decision about this idea accordingly.

Positive Analogy with Adoption

The adoption system in the United States is an existing legal structure that can give us insight into how the licensing system I propose will work. Furthermore, as I plan to show, the phenomenon of adoption also provides the basis for a second argument that the state ought to require parent licenses. My argument for parent licensing's permissibility due to its analogous structure and function with adoption is as follows:

P1: The government should require permission to become an adoptive parent.

P2: All the reasons why the government should require a license to become an adoptive parent are present in the case of becoming a biological parent.

P3: There are no reasons against requiring a license for biological parenting that don't also apply to becoming an adoptive parent.

Conclusion: So, the government should require a license to become a biological parent.

Adoption laws vary by state, so for the purpose of this paper I will just focus on Colorado adoption laws. According to the Colorado State Legislative Declaration,

The purpose [of existing State adoption laws] is to promote the integrity and finality of adoptions to ensure that children placed in adoptive placements will be raised in stable, loving, and permanent families [...] and it will be protecting children from life-long emotional and physical trauma [7].

The purpose of the parent licensing system is to do exactly the same thing. The Colorado Legislature details certain situations in which children are no longer allowed to live with their biological parents. Two examples are if the parents are homeless or unable to care for their children. The laws also aim to minimize the harm that accompanies movement between homes. With the parent licensing system, those unable to care for their children would not receive a license in the first place and thus their children would not experience the harmful trauma of moving at an older age. In addition, research shows that children are more likely to be adopted in a permanent home the younger they are. This system will help get children in permanent homes sooner so that they do not have to experience the psychological damage that comes with living in a foster home and then being transferred to another home.

According to statute 19-5-200.2. of the Colorado State Legislative Declaration,

Notwithstanding any other provisions of this title to the contrary, it is the intent of the general assembly that the court shall protect and promote the best interests of the children who are subjects of proceedings held pursuant to this part 2 while giving due regard to the interests of any individuals affected [7].

This is the first statute in the adoption section of the Declaration. It provides the overlying framework for the purpose of the adoption process. The parent-licensing process would have exactly the same framework. The system would exist to protect the best interests of the child but would also take the parents or other affected individuals into consideration.

In adoption cases, eligibility is determined through a home study that requires documentation proving that the potential adoptive parents can provide adequate care. This documentation includes copies of birth certificates, marriage licenses and/or divorce decrees, and copies of paycheck stubs, income tax forms and/or w-4 forms. [2] A prospective parent must

submit fingerprints and complete a criminal background check. If any of the following appear, they will be denied for eligibility: child abuse or neglect, any crime against a child, any crime that is an act of domestic violence, spousal abuse, any drug related felony, any felony physical assault or battery conviction, any crime involving rape, violence, sexual assault, or homicide, and any violation of a protection order [7]. The same types of crimes will be considered “red flags” in the parent licensing system.

To illustrate how these systems work, we can examine statistics that prove that adopted children fare better than their non-adopted counterparts. A public policy research group called the Search Institute published the following:

Adopted adolescents generally are less depressed, less involved in alcohol abuse, vandalism, group fighting, and theft. They score higher than children with single parents on self-esteem and positive view, and seven percent of children adopted in infancy repeated a grade, while twelve percent living with both biological parents repeated a grade [3].

The system of parent-licensing I am suggesting in this paper would be similar to our current adoption system in its ways of determining competency and hopefully in its effects as well.

One thing worth addressing is the word “license.” According to the Merriam-Webster dictionary, a license is, “an official document, card, etc., that gives you permission to do, use, or have something” [11]. Definitions like these seem to give very formal meaning to things. People do not have to acquire an “adoption license”. In fact, they do not have a specific term to describe it. Although this inconsistency seems small, I believe that LaFollette used the word ‘licensing’ in his original paper for shock value. I will continue to call them licenses as I have, but the licenses would essentially be permission in the same way that permission is granted to adopt.

How You See it Working in Practice

I feel that I can best describe the way that the system will work in practice if I consider several different couples who might undergo the process, but whose experiences will be very different. I will give four different accounts. The first two are ‘before the fact’, meaning that the couple has not yet conceived, and the second two are ‘after the fact’, meaning that the couple is already pregnant. For each I will discuss what the process will look like for those who will pass very easily and those who will have a harder time.

Within the Office of Parent Licensing (possibly housed under Child Protective Services) there will be two sub-offices. One will deal with pre-pregnancy cases and the other with post-pregnancy cases. They will need separate offices so that post-pregnancy cases are handled in an appropriate way. These couples may need special accommodation, for example, if they do not find out they are pregnant until late in their term and must go through the licensing process at an expedited speed.

Before I discuss these cases in more depth I would like to clarify a few things. There will be many cases that do not fall into these four categories. Some parents will not pass very easily but will also not have a difficult time obtaining a license. These parents may be able to pass with some counseling and guidance that the office can give them. These training classes would be designed for those couples who are eligible to pass the test, but whose test proctor feels that they could use additional guidance to ensure safety in the first couple of months after the baby is home. These classes would also be available for those couples who have failed the exam but are working to improve their eligibility for the next time that they take it.

One final thing I would like to clarify is whether people with disabilities could take the exam. My answer to this is simple: everyone can take it if they want; some will pass but some will not according to whether the office believes they can safely and adequately raise a child. If someone failed due to a disability it would only be in the case that the child was in grave danger. If we compare it to the driving system, some people are simply unable to obtain a driver's license due to a disability. Those who are epileptic must be free of seizures for a certain period of time in order to obtain a license. In addition, if people are blind they are not permitted to drive. The disabilities are not analogous in the parent-licensing system. For example, people who are epileptic or blind may be able to parent despite their inability to drive. Nevertheless, some people with disabilities will not have the ability to parent because they may, for example, be confined to a bed.

The parent-licensing test will have four components. A couple will call to schedule the exam and within a week, a trained government social worker will pay the couple a visit in their home. The proctor will look for the basics needed to provide a safe environment for a child—a level of cleanliness, the absence of harmful substances and weapons, etc. The house will not need child proofing and does not have to be outfitted with a crib, etc. The job of the proctor is just to make sure it is safe. Then the couple will have a window of time to go to the office and take a written examination to test for basic parenting skills. They will complete a short active examination, and then an interview, and finally their proctor will make a determination. Part of the interview will include a review of the test taker's financial background and their criminal history. The office will provide these documents. Each couple will have to pay a small fee to take the test. The fee will cover transportation costs for the social worker to complete the home visit and will cover the cost of obtaining a background check and financial background

documents. If a couple cannot pay the fee, that should not hinder them from taking the test, so they can request a fee waiver. Now I will write about four different couples and what their experience might look like with the exam:

i. A 'Before the Fact' Couple who will Pass Easily: A couple who wants to have a child will call the pre-pregnancy parent-licensing office and request an exam. A proctor will take a tour of their home, will deem it safe and fill out the appropriate paperwork to include in the couple's file. Then the couple will visit the office and will complete their written evaluation. They will complete it together, because this is a test of how the parents perform together. This couple will know that you should never shake a baby in order to stop it from crying, that babies should be fed often, and they will know the basic signs that a child is sick. Their examinations will be scored and added to their files. They will then complete their active examination and will know how to change a diaper, etc. Their proctor will deem them capable and will fill out the appropriate paperwork to include in their file. Finally, they will have an interview with someone who is not their proctor in order to avoid biases. This interview will include hypothetical situations such as, "what do you do if your child is showing basic signs of illness?" and the couple will answer how they see fit. Once they complete this interview and their answers are appropriate, the interview proctor will write up a review of the couple and will include a recorded copy of the interview in their file. When all parts of the folder are accounted for, a supervisor in the office will sign off on the file and will send it to the County Clerk so that they can obtain their license. The couple will be eligible to collect their license almost immediately, as it should only take a couple of days for the state Clerk's office to receive and approve the file.

ii. A 'Before the Fact' Couple who will Have Trouble Passing: A couple who wants to have a child will call the pre-pregnancy parent licensing office and request an exam. A proctor will take a tour of their home, and if they find it is unsafe due to sanitary conditions, drugs, weapons, or other issues, they will fail the couple on the home inspection and will tell them what they need to improve on. The proctor will then visit them at a later time to make sure that the house is suitable for a child. Once they pass, the couple will visit the office and will complete their written evaluation. This couple may not know that you should never shake a baby in order to stop it from crying, or that babies should be fed often, or basic signs that a child is sick. If they score poorly on their examinations, the exam proctor will give them a book to read and study and they can come back and take the written portion again when they are prepared. When they pass the information will be added to their file. They will then complete their active examination. Perhaps these parents do not know how to change a diaper or there is concern with their overall handling of a baby. The proctor will then offer to register them for preparatory classes that will teach them the parenting skills necessary to pass. When they return and pass the active examination, their proctor will fill out the appropriate paperwork to include in their file. Finally, they will have an interview with someone who is not their proctor in order to avoid biases. If their answers are not appropriate, they will once again be offered resources that can help them learn. Once they complete this interview and their answers are appropriate, the interview proctor will write up a review of the couple and will include a recorded copy of the interview. When all parts of the folder are accounted for, a supervisor in the office will sign off on the file and will send it to the County Clerk so that they can obtain their license, just like the first couple.

I must make it clear that in this case, the couple will not fail the exam completely and be turned away unless they fail *all components* of it. The only exception is if they fail the financial and criminal background component of the interview but none of the other parts—then they can still fail the exam. Here is an example of when that might happen: if the background checks reveal that both parents have criminal charges for murder within the last year, and they do not own a home but live in homeless shelters, they will probably fail the exam and the office will work with them to find a way that might make them eligible. But, if they fail the written portion, yet their home is perfectly safe, they pass the interview, and perform well on the active examination then they are fit to parent. Of course, a designated social worker will take the time to walk them through whatever they missed on the failed portion. If they fail the test completely and are turned away they will be able to reschedule and complete it as many times as they want.

iii. An ‘After the Fact’ Couple who will Pass Easily: A couple who wants to have a child will call the post-pregnancy parent licensing office and request an exam. All conditions from the first couple will hold here. The proctor will take a tour and deem their home safe, then the couple will pass their written evaluation, then they will pass their active evaluation, and finally will complete an interview. When all parts of the folder are accounted for, a supervisor in the office will sign off on the file and will send it to the County Clerk so that they can obtain their license like the pre-pregnancy couple. With all post-pregnancy cases, the file will be sent with the utmost importance to keep the process as fast as possible. The couple will be eligible to collect their license immediately, as it should only take a couple of hours for the state Clerk’s office to receive and approve the file.

iv. An 'After the Fact' Couple who will Have Trouble Passing: A couple who wants to have a child will call the post-pregnancy parent licensing office and request an exam. Conditions will be similar to the pre-pregnancy parents who have trouble passing. They may not pass the home tour, they may not pass the written examination, and they may not pass the active examination. The most important factor in this examination will be the review of the background documents, because these are most likely to cause a couple to fail and if the due date is approaching the office needs to put careful consideration into their decision. If they fail all of these components, or if they just fail the document review portion, they can take the exam again and can take advantage of all preparatory training and services that the office provides. They can take the exam as many times as they want before they have the child, but if they cannot pass and they have the child, he or she will be taken away at birth by Child Protective Services.

If a newborn baby is taken by Child Protective Services at birth because his or her parents failed to obtain a license that does not mean he or she will immediately be put up for adoption. Because it is most beneficial for a child to grow up with their biological parents and the aim of this system is not to break up families unless it is absolutely necessary, the parents will still have a window in which they can take the exam again. This will also motivate those parents to improve their lifestyle so that they may raise their child.

If a couple already has a child (or children), they are not required to complete the full exam if they want to have another. The family already passed the exam and their file is complete, so a proctor from the office would pay them another visit and give them a brief evaluation to ensure they are not abusing or maltreating their existing children. Then the court can send the completed follow up to the Clerk's office to be added to their file. If for some reason parents do

not pass the follow up, it will be presumed that it is because they are maltreating their current children and/or their financial and criminal background status have changed so drastically that the environment is no longer considered safe. In this case, the proctor will report back to the court, the license will be revoked; Child Protective Services will handle the existing children.

Objections and Replies

In the next section I will respond to concerns that with the system. These are objections my classmates made when they heard of the licensing idea, objections that philosophers have made in journal articles, or objections that I anticipate some may raise while discussing the idea.

a. Practical Objections

My proposal raises a number of practical questions. For example, what if a parent chooses to evade the government, not complete the test, and raise their child without a license? The system would coordinate with other government agencies to ensure that people are held accountable for taking it. For example, when a child is registered for school, the school checks with the Department of Child Protective Services to be sure that the child is legal and approved. When a woman in labor checks into the hospital before giving birth, they are screened through the same system. This way, if a woman is giving birth and hasn't been approved by the Department, the hospital will know to keep the child and not let the mother leave the hospital with him/her. For the purposes of my argument I will describe this as, "keeping the child a secret."

If a parent/parents avoid the system and do not take the test, they will have to jump through many loopholes to keep their child a secret. The birthing process could not happen in a

hospital, and would have to happen at home or elsewhere, which means that the child would not receive a government issued birth certificate. Without a birth certificate, the child cannot apply for a passport, enroll in school, apply for social security, or get a driver's license. If the child were ever to get sick and go to the hospital, they would be caught and the parents would face punishment by law. It seems as though it would be much easier to take the test than to submit your child to this type of secrecy their entire life. Similarly, if one chooses to skip the driver's test and drive a car illegally, they risk being caught, fined, or even punished with jail or prison time. It would be in the best interest of the parent to take the test and give their child a normal life, but if they choose otherwise they subject themselves to punishment by law.

A rejoinder to my response is that if this case presents itself, and the parent is thrown in jail or prison, that harms the child who has grown up with their parents, which is the opposite of what this system is supposed to do. My response to that is, first of all, that this case would be incredibly rare and extreme, so would not harm many children. Second, I agree that it would be counterintuitive to take the child away from their family and harm them in that way. So, the parents may face punishment other than jail or prison time that is equally as harsh and still outweighs the benefit of keeping the child a secret. This could be a hefty fine or house arrest for an extended period of time. The department would then make a decision whether to remove the child from the home or to let the parents take the test and keep their child while they serve their punishment. More often than not, the children would be removed from the home because subjecting children to this type of life is harmful. Situations such as this would probably entail a court hearing to determine the final decision. As a reminder, only very bad situations will result in a failure to get a license. They may thus be situations in which the child is better off being removed from the home.

My peers raised a third strong objection that I would like to address. In my mind, the parent licensing system would only be enforced in the United States. It would be permissible for any government to implement it, but it is not likely that if the United States does it all other countries will as well. Trying to say that this system would be implemented in countries all over the world is unrealistic, as many different governments and ideals would conflict with it. So, another objection is: What if people from other countries immigrated to the United States with children? If they were exempt from taking the test then one could argue that they are being treated preferentially and the people who enter this country have to obey the same laws that current citizens do. In addition, it would seem like too much for our government to take their children away if they failed the test upon entry but legally raised those children under the law in their own countries. A middle ground may be that the United States Citizenship and Immigration Services Department could pair with the Department of Child Protective Services to give these prospective citizens the exam the same way a citizen would receive it. It could be treated as a component of the immigration exam, and if they did not pass they wouldn't have their child taken away, but simply would not be let into the country.

I already touched on this but would like to take a moment to clarify. If Child Protective Services takes a child at birth, would the parents have the opportunity to improve and get that child back later? In the current system, some parents can work to better themselves and get their children back after proving competency. This could be a possibility, but only for a certain amount of time, as not to harm the child. If a child is placed with an adoptive family, it is harmful for them to spend years with that family and then be returned to their biological parents. But, if the biological parents improved their lifestyles within a few months and passed the test, it

only seems fair to let them have their child back. This would probably entail an appeals process, the passage of the test, and some sort of court hearing.

b. The ‘Weeding Out Good Parents’ Objection

One claim that opponents might make is that this licensing system weeds out some good parents while allowing some bad parents to obtain a license. This is a weak claim because in any licensing scenario this is inevitable. It does not challenge the reliability of my scheme as a whole. For example, some people will be reckless drivers. They may speed and blow through stop signs and disregard traffic laws, but during their exam they may be perfectly capable of having patience and leading the proctor to think that they are perfectly competent drivers. On the other hand, some perfectly good drivers may get test anxiety and will freeze up or make mistakes that they normally wouldn’t during the exam. In this case, the drivers test is in fact weeding out the good and permitting the bad, but that does not mean that we should do away with the system all together. Just because it is not flawless does not mean that its purpose of preventing harm is no longer present. Nobody is arguing that due to this flaw we should abolish the driver’s test.

It seems that the opponent is basing their judgment on a principle that says, if a system isn’t perfect—if it will involve even some injustice—then it is unacceptable. This, to me, seems like the wrong way to evaluate this and other licensing systems. It relies solely on the bad and does not examine the good that it brings about or what society would look like without the system at all. It is our responsibility to choose the best possible alternative, and even in a system that has a small amount of injustice, we are better off than not having the system and letting children die.

c. The Child Protective Services Objection

Someone could object to this system because we already have departments in place that are designed to protect children in similar ways. Why would we need to add this department if we have the Department of Child Protective Services? Their job is to identify cases like these and remove the child from the home in an effort to prevent the harm before it occurs. The proposed licensing system would be expensive and the goals would be the same as Child Protective Services—so this system is redundant and unnecessary.

My response is that there is one important morally relevant difference between the two; it is simple, but my system would identify bad parents *before* they ever had the opportunity to ‘parent badly’. The way that Child Protective Services works is that they wait for some wrongdoing to come about and then they revoke the right of the parents. Child Protective Services will still be vital for those parents who maltreat their children after obtaining a license for whatever reason. But we must recognize the importance of stopping these bad situations from happening before they occur so that children do not have to experience the irreversible effects of maltreatment that many will face the rest of their lives.

d. The Punishment Objection

One objection to the idea of parent licensing is that it is punishment without a crime. It is unjust to punish without the presence of a crime; for example, when people are placed in jail they have committed a crime and are experiencing detainment as a result of their wrongdoing. If a person were sent to jail based on the prediction that they would commit a crime in the future, it would be considered a violation of that person’s rights. Therefore, punishing parents before they do something bad to their children is punishment before the crime, and is morally wrong.

The concept of punishment should be reconsidered in this case. When someone fails to pass their driver's license exam or does not pass the Bar Exam and therefore cannot practice law, it is not a punishment; it is rather seen as the lack of having the privilege to practice these activities due to the person's incapability to perform. If parenting is considered a privilege instead of a right *because* it has the potential to do so much harm in the same way driving and practicing medicine do, it follows that this system isn't punishment, but is merely the denial of said privilege. Second, the government would not be throwing bad parents in prison. In fact, if a couple did not pass the test, and as a result were not able to have a child, they could work to improve their lifestyle. Perhaps they could overcome any addictions they may be dealing with, seek advice from a counselor and have that counselor advocate for them, or strengthen their financial standing to prove that they could support and raise a child. In addition to these factors, couples would have the opportunity to retake the test multiple times and with different proctors. If they actually had the potential to be good parents, there would be a very slim chance that they would continuously fail the test. I have just proved that parent licensing is not punishment before the crime, and is in fact not punishment at all, but is the denial of a privilege.

If we look at parenting as a privilege, the objection that it is punishment before the crime goes away because it is just to take away a privilege if one is abusing it, or could abuse it. We can see this once again by looking at the driver's test. Some might say that having to take the driver's exam is punishment before the crime—that we have the right to operate a vehicle. We do not think of obtaining a drivers license in this way because we are well aware that driving is a privilege and to qualify you must be of a certain age and competency level. We are raised with the expectation that when we turn 16 and go through the appropriate training we will be able to

take the driver's test, and even then we must pass. Society does not see it as an inherent right. If we saw parenting as a privilege the same consequences would follow.

e. **The Right-to-Reproduce Objection**

In “Can a Right to Reproduce Justify the Status Quo on Parental Licensing?” Andrew Botterell and Carolyn McLeod disagree with LaFollette. They argue that the system would be morally unjustified because people have the right to reproduce, and parent licensing interferes with that right. This right to reproduce, if it is genuine, separates adoptive parents from biological parents and shows that the government cannot place the same restraints on biological parents as they do adoptive parents. This objection is meant to attack P2 of the positive analogy with adoption argument. This premise says that all the reasons why the government should require a license to become an adoptive parent are present in the case of becoming a biological parent. This objection tries to purport that one reason is not present in adoption but is in biological parenting—reproduction. Biological parents have the right to reproduce and Botterell and McLeod quote another author who says, “[parent licensing] would be a severe imposition on people's bodily freedom and autonomy” (Overall, page 5 [15]). One role of the government is to step in and prevent harm when freedom is abused. Currently, people do have the freedom to reproduce and to raise their offspring, but if the government has a very good reason to believe that they are abusing these freedoms, then they will lose the privilege to raise their children, and those children will be taken from the home and placed in the foster care system.

It would be morally impermissible to have a law against reproduction. The reason it would be impermissible to have a law against reproduction is that while we as humans do not necessarily have the right to create a child, we do have the right to bodily autonomy. It would be

a violation of human rights for the government to put people on birth control because they failed the parenting test. In the scenario I am describing people still have a right to their own body.

In the new system, the monitoring will happen before a child is even born, and therefore it will act as a preventative measure. It is better for a child to be protected before the fact, instead of after they have endured the physical and emotional trauma of maltreatment. This will also help place children in adoptive homes at a younger age. It is important to note that only the most incompetent people will not pass the examination (more on this later). Most importantly, the right to reproduce would never be hindered by the licensing process. For the purpose of my argument, I am assuming that the definition of reproduction is the act of engaging in sexual relations, with the result being the fusion of sperm and egg, and the development of a child within a woman's uterus. In their discussion of the issue, Botterell and McLeod claim that,

According to [LaFollette's] argument, prospective biological parents are protected from parental licensing because they can exercise a right to reproduce when attempting to have children, while the same cannot be said about prospective adoptive parents [4].

According to my definition of reproduction above, the government would not be hindering the reproductive process at all. They have the right to reproduce but they do not have the right to raise a child. The parent licensing system makes parenting a privilege, and not a right, but does not change anything regarding reproduction. Botterell and McLeod are correct in their logic regarding government infringement, but they did not spell out those rights in the correct way. There is a right to bodily autonomy, but this argument has no bearing on parent-licensing with the right to reproduce.

f. Objection from the Non-Identity Problem

If a couple schedules a parent-licensing exam and fail it, then we can be reasonably confident that they would've been bad parents. They can work to improve and try again later, but presumably the life the child would have lived had the couple been permitted to create the child is better than not existing at all. So, one might object that a parent-licensing policy will deprive some children of a life worth living and cause harm to that child. This is like the non-identity problem in philosophy. The non-identity problem focuses on the value of life and whether it is better to have a flawed life than to not exist at all. In this case it seems like the system is depriving someone of a life, even if it is a painful one. The objection from the non-identity problem illustrates how parent licensing would prevent at least some lives from coming into existence, and as a result has the capacity to do more harm than good.

This argument might be effective if this paper were about reproduction licensing. But the activity in question is having a child and raising it poorly. I will respond to this objection in two ways. First, in some cases having a child and raising it poorly would cause more harm than not existing at all. We can consider this from the point of view of an imaginary yet-to-exist child who will have to pick one of two options for their life: they can not exist at all, or they can exist for a short period of time, suffer, experience maltreatment or neglect, and die at a young age. I think it is plausible that the child would choose not to exist, which is evidence that it is not necessarily the case that if a child does not come into existence as a result of the system it will be worse for them than living may have been.

At most, this objection forces us to consider where to set the bar for restricting people from parenting. What I mean by this is that there would be a certain level of harm that the system would aim to prevent—whether the bar falls in a place that allows people with theft charges on

their record to pass the exam but does not let people with homicide on their record pass. Or perhaps we want to keep children from learning bad lessons from their parents so those who have theft on their record fail. Theft is not a case where someone would necessarily fail, but there will be a way in which the courts will determine how the office is to decide controversial cases without being too harsh. But, this counterargument fails to rule out my scheme completely. Further, I am not even sure how strong it is in helping us set the bar.

The more that the government raises the bar in this scenario, the more harm *and* the more good it does. If we lower it, the system fails to protect children who will have horrible parents. If we raise it, we prevent lives worth living. There must be some place to put the bar, and this would be an empirically calculable job for the agency in charge of the system. I see it as a trial and error process with extensive data collection. Judges will form precedent over time that dictates who is ineligible and according to what standards. The body of law regarding this system will become more refined over time.

I will make a second response to my objector. It is true that this policy would prevent or deter parents from creating a child, but in many such cases it would motivate parents to get their act together so that they could pass the test. As a result, they will have a child at a later point in time who is better off. So, yes, the system stops life in one sense but encourages a better life for a second child. This is overall a better outcome, an outcome in which children fare better.

One possible objection here is that I am now valuing one life over the other. This is true, but I believe it is justified. To justify this we can turn to the following thought experiment: imagine a young woman has an illness. Her doctor tells her that if she has a child right now with her illness, that child will be unable to walk. If she undergoes treatment and waits a few months until the illness clears, she can have a child that will be perfectly healthy. In this case, if the

woman decides to wait she is valuing one life over the other, but it wouldn't be morally wrong.

In fact, it seems as though she is morally obligated to wait to have a child. Therefore, this thought experiment illustrates that valuing one life over the other can be morally permissible, and even required, in cases like these.

g. Minimum Standard Objection

In this paper, I argue that the standard of competency is *so* low that it only weeds out the worst parents. The reason for this is because it is unclear whether having a life full of hardship would be a better alternative than not existing at all. If the standard of competency is so low, it will only prevent harm in cases where the children will be treated so badly that their life may not be worth living. This objection says that if the standard of competency is that low, it seems that bad people will still be able to have children. There will still be many terrible parents in this world and the system will lack the ability to stop those parents who just barely pass the test. In addition, it will take billions of dollars, and lots of time and energy to actually enact the system. It will have to pass through the state legislature, and once it does it will take a while to designate or raise the funds to make it happen. After that, buildings must go up in each state, exam proctors must be trained, and there will be new laws written and passed. If this system happens it will not happen with ease. Is it worth the time, money, and effort to only protect a small fraction of children who are in the very worst cases? It seems as though the system should offer more protection at the least.

I agree with my opponent that it would not be good if the benefit was low and the cost was high. We must ask ourselves if the burden to go through the licensing exam and process is too great. We also must ask whether only weeding out a few bad parents is enough to protect

against the side effects and cost to society. The way to approach this is to consider the values that come with the benefits and costs. The benefit that we are working toward is providing children with a safe life and the chance at an upbringing free of abuse and neglect. That effort should hold far more weight than should the cost to the taxpayer or the inconvenience to the potential parents.

One of my arguments is that the analogy to adoption shows why we should have a parent-licensing system. Current policies the government has in place aim to have a similar minimum standard, so that children can remain with their biological parents if possible. According to Rita Soronen, the President and CEO of the Dave Thomas Foundation for Adoption, “terminating, or legally ending the right of parent to child, is not something a judge decides lightly.” [16] This would be a condition similar in the parent-licensing scheme. She continues, “In fact, every legal, social, and system opportunity is given to parents to keep their families intact.” [16] The aim to keep families together if possible is not a novel idea, but instead these minimum standards are in place so that we can avoid infringing on basic human rights to remain within a family and raise one’s own child. To clarify, the aim isn’t for the government to gain control over families, but instead to protect children.

I do not think that this objection is empirically accurate. The policy is intended to prevent the horrors that children born to incompetent parents face. As a reminder, these children are abused and neglected. I think it may help to highlight a few current cases that help show what we are trying to prevent.

Case one: On February 18th, 2015, one article told the story of a baby who starved to death. His parents were charged with his death. The baby was 7 weeks old and needed the nutrients from his mother’s milk to survive, but instead the parents fed him store bought milk

and used the mother's ability to lactate for pornographic purposes. As a result, the child lost weight and died of starvation. This is one case in which the baby might have been saved if there was a licensing system in place. [12]

Case two: On February 19th, 2015, a couple named John and Lavonne Kelley were charged with neglect in the case of their daughter Linda. Linda had *spina bifida*, a birth defect that causes abnormalities of the spinal cord. Her parents did not take care of her and as a result she died. They left her in bed without ever moving her so she passed away, "wearing only a diaper and covered in blackened bedsores" [13]. This is another case in which a tragic death might've been preventable.

Case three: On July 13th, 2005, a Florida detective stumbled upon a small girl's face in a window. He entered the home and found a child sitting in her own filth, among thousand of cockroaches and spiders. She was severely malnourished and on the brink of death. She was rescued and lives with an incredible adoptive family who is helping her make great strides in her recovery. Despite the support she gained from this family, she cannot develop the cognitive ability to function any more than a two-year-old child can. If Child Protective Services had visited the run down rental home full of spider webs, broken glass, and animal feces, there is no way they would've licensed her birth mother, who was forced to relinquish her parental rights in 2005. [5]

These are among thousands of cases that are very real and happening every single day in the United States. My purpose was to show the horrors that this system is designed to prevent. If you feel nauseated and horrified at these stories, then I have accomplished my goal.

These terrible situations themselves will lead to more harm. According to WebMD, abuse and neglect lead to terrible circumstances later in life. Children will end up so emotionally and

physically harmed that they are more likely to have borderline personality disorder, low self-esteem that effects their relationships with others, they are more likely to engage in criminal activity and to abuse drugs. These are harms to society. Perhaps most importantly, “Children who are abused or neglected are more likely to abuse other children and siblings and, later in life, their own children or elderly parents.” [6] These secondary harms are worth taking into consideration as well. The licensing system will have important peripheral effects on society and families in the future.

The licensing system would only deny the parents who raised the greatest red flags and were believed to be incredibly high risk. But, the way I envision it, Child Protective Services would keep a very detailed record of the way the parents acted and how they scored on their examination. Based on some cases that were questionable but the parents still passed, CPS could then visit the home after the child was born. This would work to combat the circumstances in which parents pass but are still going to harm their children.

In cases where removing a child from the home is necessary by Child Protective Services, society believes that the benefit justifies the cost. In the case of parent-licensing, if we could stop at least some of the deaths that I discussed above, money and the burden to society or potential parents should not be a deciding factor. In addition, protecting those children who are born into families who barely pass but will still be harmed can be achieved in other ways through follow up check-ins, etc. But the only way this licensing system will be feasible is if it stops the worst parents from obtaining licenses.

Make no mistake, the aim of the system is not to break families apart. That is why there are measure in place to ensure fairness. These include using separate proctors for different parts of the exam so that a couple does not encounter a proctor who simply does not like them (though

the hope is that people who act this way will not be the trained social workers who administer the exam). The reason a recorded copy of the interview is included in the file is so that if a couple claims the test was unfair, they can go through an appeals process. This process will determine whether they should've passed and courts can use the interview to help them make a decision. Children are better off when they stay with their biological parents, and if this system aimed to split families up it would be counterproductive.

Conclusion

In conclusion, if the licensing system is effective, children will be better off and the rates of abuse and neglect will decrease. I have just responded to the claims that it is unjust to have a punishment prior to a crime, because as you can see this system would in fact not be one of punishment. I responded to the idea that licensing is an imposition of the freedom to reproduce because the problem does not have to do with reproduction at all. I responded to the idea of parents evading the system by explaining that the system is incentivized so that it is much easier and safer to take the test than it is to not take it. I suggested a possible solution to the problem of immigration that would subject immigrants to the same restrictions that citizens have regarding parenting. Finally, I responded to more objections such as the non-identity problem and the minimum standard objection to show that the scheme would be morally permissible. Parent-licensing seems unrealistic and shocking at first thought, but after exploring the evils it aims to prevent and its feasibility, one can see that its capacity to prevent harm makes it morally permissible.

Works Cited

- [1] "Adoption Reform in the United States." *Wikipedia*. Wikimedia Foundation, n.d. Web. 28 Feb. 2015.
- [2] "Adoption." *Services, Agencies, International, Adoptive Parents, Baby*. N.p., n.d. Web. 28 Feb. 2015.
- [3] "Adoption Statistics." *Adoption & Beyond*. N.p., n.d. Web. 24 Feb. 2015.
Associated Press, 'Report: Child-abuse deaths rising', MSNBC.com (2009),
<http://www.msnbc.msn.com/id/33405080>.
- [4] Botterell, Andrew & McLeod, Christine. "Can a Right to Reproduce Justify the Status Quo on Parental Licensing?" *Journal of Applied Ethics*. University of Western Ontario.
- [5] Capretto, Lisa. "How 'The Girl In The Window' Is Doing 9 Years After Her Rescue From Horrific Neglect (VIDEO)." *The Huffington Post*. TheHuffingtonPost.com, 18 June 2014. Web. 28 Feb. 2015.
- [6] "Child Abuse and Neglect-What Happens." *WebMD*. HealthWise, n.d. Web. 27 Feb. 2015.
- [7] "Child Adoption Laws Colorado." *Child Adoption Laws Colorado*. Colorado Adoption Services, n.d. Web. 28 Feb. 2015.
- [8] "Colorado Drivers Permits - CO Learner's Permit Online Guide at DMV.org: The DMV Made Simple." *DMV.org*. N.p., n.d. Web. 28 Feb. 2015.
- [9] LaFollette, Hugh. 1980. "Licensing Parents." *Philosophy and Public Affairs* 9(2): 182-197.
- [10] LaFollette, Hugh. 2010. "Licensing Parents Revisited." *Journal of Applied Philosophy* 27(4): 327-343.
- [11] *Merriam-Webster*. Merriam-Webster, n.d. Web. 28 Feb. 2015.
- [12] Murdock, Sebastian. "Oregon Couple Charged After Infant Son Starves To Death." *The Huffington Post*. TheHuffingtonPost.com, 18 Feb. 2015. Web. 28 Feb. 2015.
- [13] Murdock, Sebastian. "Paralyzed Teen Dies Of Bedsores, Parents Charged." *The Huffington Post*. TheHuffingtonPost.com, 19 Feb. 2015. Web. 28 Feb. 2015.
- [14] Neighmond, Patti. "People With Low Incomes Say They Pay A Price In Poor Health." *National Public Radio*. NPR, 2 Mar. 2015. Web. 7 Mar. 2015.
- [15] Overall, Christine. 2012. *Why Have Children?* Cambridge, MA: MIT Press.
- [16] "Report: Child Deaths Rising." *Msnbc.com*. MSNBC, 21 Oct. 2009. Web. 21 Mar. 2015.

- [17] Soronen, Rita. "The Cycle of Violence: How We Failed 23,439 Children Last Year." *The Huffington Post*. TheHuffingtonPost.com, 13 May 2014. Web. 28 Feb. 2015.
- [18] Steffen, Jordan. "Denver Father Gets 5 Years in Prison in "Horrific" Child Abuse Case." - The Denver Post. The Denver Post, 30 Dec. 2014. Web. 16 Mar. 2015.
- [19] "The 2012 Statistical Abstract." *Motor Vehicle Accidents and Fatalities*. United States Census Bureau, n.d. Web. 26 Feb. 2015.
- [20] US Department of Health and Human Services, *Child Maltreatment 2006* (Washington, DC: US Department of Health and Human Services, 2008), p. xiv.
- [21] US Department of Health and Human Services op. cit., Table 5-2.
- [22] US Department of Health and Human Services op. cit., p. 65.
- [23] "Who Can Adopt?" - *Child Welfare Information Gateway*. U.S. Department of Health and Human Services, 2011. Web. 28 Feb. 2015.