

CONSTITUTIONAL PRINCIPLES

- I. Basic parameters of federal constitutional law
 - A. *Troxel* (Constitutional right to raise & control associations of children)
 - B. Limits of *Troxel*
 - 1. *Rennels & Hudson v. Jones*
 - 2. NRS 125C.050 – third party visitation
 - 3. NRS 125.480 possibilities of third party custody
 - C. Supremacy Clause Basics
 - D. Priority of right to confer with counsel; non-interference
 - 1. *Gideon v. Wainwright*, 83 S. Ct. 792 ((1963) (such access, unimpaired and unimpeded, is guaranteed by the 14th Amendment);
 - 2. *Morales v. Turman*, 326 F. Supp. 677 (E.D. Tex. 1971) (the right to confer with counsel of one's own choosing is ***fundamental***).
 - E. Other Rights?
 - 1. Why should you care? Quasi-judicial immunity – and limitations.
 - 2. What are they & how could MHP actions be asserted to violate them?

First Amendment – Establishment Clause, Free Exercise Clause; freedom of speech, of the press, and of assembly; right to petition

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Second Amendment – Militia (United States), Sovereign state, Right to keep and bear arms.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.[60]

Third Amendment – Protection from quartering of troops.

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Fourth Amendment – Protection from unreasonable search and seizure.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Fifth Amendment – due process, double jeopardy, self-incrimination, eminent domain.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Sixth Amendment – Trial by jury and rights of the accused; Confrontation Clause, speedy trial, public trial, right to counsel

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Seventh Amendment – Civil trial by jury.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

Eighth Amendment – Prohibition of excessive bail and cruel and unusual punishment.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Ninth Amendment – Protection of rights not specifically enumerated in the Constitution.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Tenth Amendment – Powers of States and people.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

List of Exhibits:

1. *Troxel*
2. *Rennels*
3. *Hudson*
4. NRS 125C.050
5. NRS 125.480
6. Quick note re: Federal Preemption
7. Constitutional Law note re: Right to Counsel
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