

# Parent Licensing

**1. Three Criteria For Licensing:** LaFollette points out that the government currently regulates several sorts of activities by requiring a license to perform them; for instance, driving a car, being a doctor, lawyer, psychiatrist, or pharmacist (simpler licenses or permits are required in a great many other areas as well; e.g., buying firearms, purchasing certain dangerous chemicals, or animals, etc.). We do not generally question the fact that licenses are required in these cases. Why?

It seems that the above cases all have 3 things in common. LaFollette claims that licenses should be required whenever the following 3 criteria are met:

- a) It is an activity which is potentially **very harmful** to others.
- b) Safe performance of the activity requires a certain **level of competence**.
- c) We have a moderately **reliable procedure** for determining competence.

Even though requiring licenses for, e.g., driving is an inconvenience, and furthermore the test is not 100% accurate (sometimes good drivers fail, and bad drivers get lucky and pass), we think licensing driving is still a good idea because of what we stand to lose if we do NOT require licenses for driving.

**2. Parent Licensing:** LaFollette then goes on to say that PARENTING fits all three of these criteria as well.

- a) Parenting is potentially **very harmful** to others. (*Note: About 6.6 million children in the U.S. are reported as physically/sexually abused and/or neglected each year, and nearly 1 million of these reports were confirmed. This means that about 1% of all children in the U.S. are the victims of confirmed cases of abuse and/or neglect each year; and about 1600 of these cases result in the child's DEATH!*) ([source](#))
- b) Safe parenting clearly requires a certain **level of competence**.
- c) It is possible to come up with a moderately **reliable procedure** that determines whether or not someone would be a competent parent.

Therefore, the state ought to require a license before its citizens can bear children. A formalized argument can be stated as follows:

1. Any action which is (a) potentially very harmful to others, (b) can only be safely performed if the performer has a certain level of competence, (c) and for which there could be a moderately reliable procedure for determining competence should require a license.
2. But, parenting is both (a), (b), and (c).
3. Therefore, parenting should require a license.

### **3. Objections:** Objections below.

1. Rights Violation: What LaFollette fails to recognize is that he should have added to his list, “d) Government regulation of this activity does not constitute a rights violation.” Banning some people from rearing children is clearly a **violation of one our basic rights** (the right to have children); and it is always unjust to violate any of our basic rights (such as the right to freedom of speech, and religion, and the right to life).

Reply: First, what does “the right to have children” even MEAN? Is it:

(1) The right of ANY person to *have children*?

This interpretation will not do, because then it would require that we just GIVE children to anyone who wants one, without restraint—even sterile people, or children, etc.

(2) The right of any person to *procreate*?

Perhaps we do have a right to do what we want to/with our own bodies, and this may include procreation. But surely the right to bear children comes with the price tag of incurring some subsequent responsibility for that child. For instance, surely it is not permissible to just give birth and then leave the child on the sidewalk. So is it:

(3) The right of any person to procreate, provided that they then see to it that the child is cared for?

This is much better, but cared for HOW? In ANY way that they see fit? What about those parents who think their children should be abused regularly? No. The answer is this:

(4) The right of any person to procreate, provided that they then see to it that the child is cared for according to **some minimum, universal moral standard**.

It seems like THIS is the correct statement of the right that we ACTUALLY have. But, this is completely compatible with LaFollette’s proposal. Licensing parents would NOT be a violation of THIS right. Therefore, parent licensure is not a rights violation.

Rights are not absolute: This may seem like a restriction of our basic rights, and this may seem wrong; but note that rights are NOT absolute.

For instance, the right to **free speech** does not entail the right to shout “Fire!” in a crowded venue; nor a right to libel, slander, or inciting violence; **freedom of religion** does not entail the right to engage in ritual human sacrifice to appease the gods.

In short, any rights that we have do not entail the right to exercise them in ways that HARM others. As the saying goes, "My right to swing my fist ends where your nose begins." Furthermore, we think it is permissible for the government to enforce laws which ensure that we will not wrongfully use (abuse?) our freedoms to harm others.

So, even if we have a right to free speech, laws against hate speech, slander, etc., do not violate this right. They are not unjust. Even if we have a right to freedom of religion, laws prohibiting human sacrifice do not violate this right. And if we DO have something like a "right to have children," a parent licensing program would not violate this right. For, this right—just like any other right—is limited, and this limitation should be enforced.

2. Punishment without a crime: Parent licensing would restrict people's freedom and basically PUNISH them for something they've never done. A potential parent might lose their freedom to raise children even before they've ever done anything bad to a child. This is punishment without a crime.

Reply: First, note that potential doctors are already denied medical licenses BEFORE they ever botch a surgery, and potential drivers are already denied driving licenses BEFORE they ever hit someone with their car—and yet we think these restrictions are ok. Some severely mentally unstable people are even forcibly incarcerated or detained before they have ever committed a crime!

The reason that such restriction is permissible is because the degree of restriction (not being able to drive a car, have children, be a surgeon) is not nearly so great a loss as what is at stake (the life or well-being of innocent people).

Second, just as with most other licenses, the applicant who REALLY had their heart set on having children could take educational courses, keep re-taking the test, etc. until they passed. The supposed "punishment" before the crime is not necessarily permanent.

3. Practical objections: Even if LaFollette's proposal sounds good IN THEORY, we might worry that it would not work IN PRACTICE, for the following reasons:

- Premise 2c is false. In reality, it would be impossible to come up with a moderately reliable procedure for determining whether or not someone would be a competent parent (because there IS NO standardized set of criteria, it would be impossible to predict who would be abusive, etc.).
- If the practice WERE licensed, injustices would occur (either because of unintentional errors, or INTENTIONAL ones—e.g., testers disqualifying people they don't like, or have discriminatory prejudice against, from rearing children).
- Such a system would be impossible to enforce. For instance, what do we do about the millions of accidental pregnancies that would undoubtedly occur?

Reply: First, tests would not need to be able to pick out good parents so much as reliably at least weed out the VERY BAD parents. And there are plenty of current psychological tests that are well on their way to being able to determine this sort of thing (e.g., we know that child abuse is correlated with parents being prone to violence, easily frustrated, or overly self-centered or sociopathic); and we could start gathering data now to make these sorts of tests even more accurate.

Second, the current systems for licensing driving, medical practice, law practice, etc. are likely to contain some errors or abuses—and yet we think that the potential for these things to occur is overridden by the great amount of harm that would occur if we do not license these activities AT ALL.

Third, regarding accidental pregnancies, we could require the expecting parents to be licensed—and if they repeatedly fail the exam during the pregnancy, then child services could take the baby away.

**4. An Argument by Analogy:** LaFollette offers another argument for his thesis. He begins by pointing out that we CURRENTLY DO have the sort of system that he is proposing in place for people who want children—at least, in cases of ADOPTION. Adoptive parents must go through a lengthy and costly process, involving screenings, background checks, and huge sums of money. LaFollette notes that adopted children are FIVE TIMES less likely to be abused than children reared by their biological parents—so, all of this screening must be working. Here is an argument:

1. Adoptive parents should undergo some sort of screening process in order to determine whether or not they would be competent parents before being allowed to raise children.
2. Adoptive parenting is morally analogous to biological parenting in all of the relevant respects.
3. Therefore, biological parents should ALSO undergo some sort of screening process in order to determine whether or not they would be competent parents before being allowed to raise children.

P1 seems fairly uncontroversial. If we did not screen adoptive parents, child abuse would surely increase. We think it is better to inconvenience potential adoptive parents and even mistakenly deny some of them the ability to adopt than to let just anyone adopt. What about P2?

Objection to P2: Biological parenting is not analogous to adoptive parenting because biological parents acquire a NATURAL AFFECTION for their children, which adoptive parents do not.

LaFollette responds by pointing out that, even if most parents naturally love their children and take good care of them, many clearly do NOT, since there are millions of cases of parents abusing their biological children every year.

Objection: The Non-Identity Problem: When we have a child who is already born and needs a good home, screening parents to ensure that they will take good care of this child clearly increases the chances of making that child's life better off.

But, consider what happens in the case of restricting procreation. If we prevent a parent from conceiving a child because that parent shows the potential for abuse, have we really made any child's life better off? It seems like, for that potential child, the alternatives are (i) they get to exist, but under the threat of possible abuse, or (ii) never exist at all. Is the second option really better than the first?

**5. Minimum requirement:** LaFollette is arguing for whatever the MINIMUM sort of procedure would be in order to reduce the amount of child abuse—certainly something much less stringent than the adoption process. He even suggests that we might achieve this goal merely by giving tax breaks to licensed parents and having child services scrutinize unlicensed parents more carefully (rather than, say, taking children away from parents who do not pass the licensing test).

**6. A final objection:** Here is an interesting suggestion. LaFollette's main motive for wanting to restrict procreative rights is that, when SOME parents procreate, they are likely to bring harm to their child. But, then, what if I am not a potential child abuser, but I DO carry a genetic pre-disposition to some debilitating disease that I am likely to pass on to my child? Should the state ALSO restrict MY right to have children? This practice seems morally questionable; and yet, is it not analogous to the case of a potentially abusive parent? If not, why not?