The Fundamentally Flawed Approach to Reducing Juvenile Crime

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Parental responsibility laws should not be considered a viable public policy option to diminish delinquency among America’s youth.

In response to growing public concern over recent increases in juvenile violence and in an effort to curb this disturbing trend, legislators have enacted laws aimed at holding parents responsible for crimes committed by their delinquent children. Parental responsibility laws attempt to involve parents in the lives of their children by holding them civilly and/or criminally liable for their children’s actions. Many citizens see these legal consequences as an effective way to take action against existing juvenile crime and as an innovative approach to stop future juvenile crime. Public support for this type of legislation sends a clear message: The American people believe that “parents are largely to blame for the delinquent acts of their children.”

Although support for these laws and their associated penalties is widespread, parental responsibility laws are inherently flawed. First, the assumption that parents are the sole influence on their children and, as a result, have adequate power to effectively control them is false. Second, because the courts cannot identify a standard whereby to judge proper parenting, parental responsibility laws are, of necessity, vague. Also, these laws infringe upon the constitutional right to substantive due process. In addition,
negative externalities arise from this type of legislation in the form of adversarial and strained relationships in the home. Finally, even when enacted, parental responsibility laws have proven to be ineffective in achieving their desired result of reducing juvenile crime.

The issue of parental influence on children’s criminal behavior is frustratingly complex and is thus often oversimplified in an effort to find someone to blame for children’s wrongdoings. A common argument used by advocates of parental responsibility laws asserts that parents have the sole power to control their children. However, this is not so. Scientific studies confirm that parental control over children’s behavior is far weaker than is generally believed. The family is just one of the many factors to consider and, therefore, should not receive exclusive blame. Criminology theories, as well as empirical studies, confirm that several causes of juvenile crime exist beyond parental control: “The family, economic status, academic achievement, peer groups, community attachment, and media can all influence whether a child will become delinquent.” In sum, the idea that parents alone exercise sufficient control over their children such that they should be responsible for their actions is false according to research. It is, therefore, impossible for a court to determine that the way a specific parent raises a child is the legal cause of a child’s violent behavior. Hence, using parental responsibility laws to judge parents according to the criminal behavior of their child is to purport that the child is the product solely of the parenting. Evidence shows that this is simply untrue. Consequently, the legality of parental responsibility laws is subject to great scrutiny.

In addition to the aforementioned problems concerning criminal influence, parental responsibility laws are poorly and broadly drafted, owing to the impossibility of defining an exact standard of parenting. How is a court to define correct and proper parenting? Such a wide spectrum of opinions

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3 Scarola, 1038.

4 Difonzo, 47.
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(all, of course, founded on research) exists as to what constitutes good and bad parenting that any standard a court derived would be seen as overly subjective. For this reason it is impossible for parental responsibility laws to define practical, realistic, and comprehensible standards for the court to use consistently in determining parental negligence or incompetence. For this reason it is impossible for parental responsibility laws to define practical, realistic, and comprehensible standards for the court to use consistently in determining parental negligence or incompetence. Judges in Kentucky, Louisiana, Wyoming, and Oregon ruled such laws unconstitutional due to this lack of an efficacious standard. Legal scholars agree that such vagueness makes it difficult to understand what type of behavior falls within the purview of the law. There is not enough government guidance, nor should there be, as to how parents should (or should not) act. Common terms in parental responsibility laws such as “reasonable control” and “proper supervision” are not easily defined. If the responsibility standards are inherently vague, it is impossible for parents to know when (or for what) they are likely to be prosecuted. If a statute is too vague due to the many differing valid and founded opinions regarding what constitutes parental responsibility, how can it be expected to bring perpetrators to justice? Effective parental responsibility laws are neither possible nor reasonable.

When parental responsibility laws are adopted, they become subject to additional legal challenges because they violate the Constitution of the United States. Parental responsibility laws directly oppose the Due Process Clause of the Fourteenth Amendment, which protects families from state interference. Any attempt by the courts or legislature to define or prescribe parental behavior through a parental responsibility law will violate these established constitutional rights. In interpreting the Constitution, the Supreme Court has in numerous decisions afforded “parents wide latitude in deciding how to raise their children,” having ruled that families have a

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10 Ibid.

certain degree of "autonomy and freedom." A law cannot exist that clearly prohibits an activity that the Constitution protects. As a result legislators deliberately use vague language in an effort to protect the validity of parental responsibility laws. Unfortunately, however, the vagueness that attempts to give the law efficacy makes it impossible to enforce. As such, parental responsibility laws (because they are unenforceable) should be done away with.

Another challenge against parental responsibility laws must be raised regarding the unintended consequences they may create. These negative externalities are intrinsic in the ambiguous logic of such legislation. Although they attempt to positively involve parents in the lives of their children, such laws more often strain parent-child relationships, converting parents and children into adversarial parties in the home. For example, if parents have been imprisoned or if they are working more hours to pay off fines, they are likely to spend even less time with their children. Moving further away from the primary aim of parental responsibility laws, other children in the home may become more deprived of both financial and personal support from parents. Another risk of demanding parental involvement is that parents may go too far in disciplining their children to behave better, crossing the line into abuse. Finally, by aiming the legal sanctions at mother and father, we teach children that they need not feel personally responsible—that only their parents need to change. Prosecuting parents when their children commit delinquent acts might "lead to strains in families where relationships already are tense and might even give to troublesome delinquents a weapon against their parents which they would not hesitate to use." Vindicative juveniles could intentionally commit a crime to punish their parents. Instead of preventing delinquency, parental responsibility laws may actually nurture it.

Most importantly, current parental responsibility legislation fails to reduce juvenile crime. Many states across the nation attempt to enforce such laws, yet most available statistics suggest these laws are ineffective at reducing the juvenile crime rate. For example, in 1994 the California state
legislature passed a parental responsibility law aimed at improving juvenile behavior by focusing on parental education. As a result of the law, one thousand parents were required to attend parent training or counseling. Despite the mandatory enrollment of these parents, no corresponding decrease in crimes committed by their children has occurred. No available evidence exists that provides strong empirical support that such laws are as effective as the public and legislators tend to believe. Parental responsibility laws simply do not produce their intended result—reducing general juvenile crime rates.

Parental responsibility laws should not be considered a viable public policy option to diminish delinquency among America's youth. Despite popular opinion and legislative action in recent years, responsibility for juvenile crimes should not be attributed to parents. Parents do not wield exclusive power to influence and control their children. To punish parents for the wrongs of their children is to falsely allege that parents are the legal causation of children's delinquent behavior. In addition, many of these laws target improper parenting methods with a degree of specificity sharply in contrast to the irreconcilably vague language contained in these statutes. Parental responsibility laws also inherently and impermissibly violate the constitutional right of substantive due process. They may create tension in the home and are at best ineffective at achieving the goals of curbing juvenile crime. No simple solutions exist to the problems of juvenile violence or parental neglect, but flaws in current parental responsibility laws plead for change. Although it is beyond the scope of this article to consider, a more effective method must be discovered and established to treat and prevent the growing problem of juvenile crime.18

17 Ibid.
18 Difonzo, 106.