

50/50 parental natural right is personal privacy that **which a judge, legislator, or official, no matter how well intentioned, simply cannot go**

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The Florida Constitution's express right to privacy states: "Every natural person has the right to be let alone and free from governmental intrusion into the person's private life, except as provided herein." Art. I, § 23, Fla. Const. "In enacting this freestanding constitutional provision, the citizens of Florida opted for more protection from governmental intrusion than that afforded under our federal constitution. The state constitutional right to privacy is much broader in scope, embraces more privacy interests, and extends more protection to those interests than its federal counterpart." *Von Eiff v. Azicri*, [720 So.2d 510, 514](#) (Fla. 1998) (citations and quotations omitted).

Florida's constitutional right to privacy recognizes the zone of autonomy around a nuclear family into which a judge, legislator, or official, no matter how well intentioned, simply cannot go. This zone protects "the fundamental right of parents to make decisions concerning the care, custody, and control of their children." *D.M.T. v. T.M.H.*, [129 So.3d 320, 336](#) (Fla. 2013) (citing *Stanley v. Illinois*, [405 U.S. 645, 651](#), [92 S.Ct. 1208](#), [31 L.Ed.2d 551](#) (1972)). **The only exception occurs if one of the members of the family is at risk of significant harm.** In this regard, the Florida Supreme Court has held that "[n]either the legislature nor the courts may properly intervene in parental decisionmaking absent significant harm to the child threatened by or resulting from those decisions." *Von Eiff*, [720 So.2d at 514](#). Under these principles, it is violation of a parent's right to privacy for the legislature to confer on non-parents, even biological relatives such as grandparents, the right to visit minor children against the parents' will. See *Beagle v. Beagle*, [678 So.2d 1271, 1277](#) (Fla. 1996) (holding that the State cannot impose grandparent visitation upon a minor child "without first demonstrating a harm to the child").

Under this body of law, the trial court properly dismissed the former partner's complaint to establish parental rights and visitation. The former partner is not the birth mother. She is not a biological parent of the child in that she did not contribute biological or genetic material, such as an egg, as part of the child's conception. She has not adopted the child. And she was not married to the birth mother at the time the child was born. Regarding parental rights, "the law is clear: those who claim parentage on some basis other than biology or legal status do not have the same rights, including the right to visitation, as the biological or legal parents." *Russell v. Pasik*, [178 So.3d 55, 59](#) (Fla. 2d DCA 2015).

Castellat v. Pereira, 225 So. 3d 368, 370-71 (Fla. Dist. Ct. App. 2017)

We decide this case pursuant to the Texas Constitution. **While the Texas Constitution contains no express guarantee of a right of privacy**, it contains several provisions similar to those in the United States Constitution that have been recognized as implicitly creating protected "zones of privacy." *Cf. Roe v. Wade*, [410 U.S. 113, 152](#), [93 S.Ct. 705, 726](#), [35 L.Ed.2d 147](#) (1972). Section 19 of the Texas Bill of Rights protects against arbitrary deprivation of life and liberty. TEX.CONST., art. 1, § 19. Section 8 provides the freedom to "speak, write or publish", and section 10 protects the right of an accused not to be compelled to give evidence against himself. TEX.CONST., art. 1, §§ 8, 10. Sections 9 and 25 guarantee the sanctity of the individual's home and person against unreasonable intrusion. TEX.CONST., art. 1, §§ 9, 25. Finally, the Texas Constitution protects the rights of conscience in matters of religion. TEX.CONST., art. 1, § 6. Each of these provisions gives rise to a concomitant zone of privacy. *Cf. Griswold v. Connecticut*, [381 U.S. 479, 484](#), [85 S.Ct. 1678, 1681](#), [14 L.Ed.2d 510](#) (1965). **We do not doubt, therefore, that a right of individual privacy is implicit among those "general, great, and essential principles of liberty and free government" established by the Texas Bill of Rights.** TEX.CONST., art. I, Introduction to the Bill of Rights. **We hold that the Texas Constitution protects personal privacy from unreasonable intrusion. This right to privacy should yield only when the government can demonstrate that an intrusion is reasonably warranted for the achievement of a compelling governmental objective that can be achieved by no less intrusive, more reasonable means.**

Texas State Employees Union v. Texas Department of Mental Health & Mental Retardation, 746 S.W.2d 203, 205 (Tex. 1988)

The importance of personal privacy to Texas's legal framework is also worth noting. The Texas Supreme Court has found that Texas's Constitution guarantees a right to privacy. *Tex. State Emps. Union v. Tex. Dep't of Mental Health & Mental Retardation*, 746 S.W.2d 203, 205 (Tex. 1987). And when an unwanted invasion of privacy occurs, the Supreme Court has recognized a common law right of action. *Billings v. Atkinson*, 489 S.W.2d 858, 860 (Tex. 1973). "The right of privacy has been defined as the right of an individual to be left alone, to live a life of seclusion, to be free from unwarranted publicity." *Id.* at 859; see also *Cain v. Hearst Corp.*, 878 S.W.2d 577, 578 (Tex. 1994). This court has recognized that right in a number of contexts, including situations that involve neither trespass nor eavesdropping. *St. Paul Fire & Marine Ins. Co. v. Green Tree Fin. Corp.—Tex.*, 249 F.3d 389, 394 (5th Cir. 2001) (finding that constant and abusive debt-collection calls "clearly support a cause of action for invasion of privacy.>").

Amin v. United Parcel Service, No. 22-10295 (5th Cir. 2023)