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Equal rights for children under the law



Oregon State Rep. Bruce Starr

Repeal bill introduced in Oregon

In January, Oregon state representative Bruce Starr, R-Aloha, introduced a bill to repeal Oregon's five religious exemptions in the criminal code and two in the civil code. HR2494 has distinguished bipartisan cosponsors, including House Speaker Lynn Snodgrass, R-Boring; Senate Minority Leader Kate Brown, D-Portland; and 12 other Republican, Democratic, and Independent legislators.

The bill was prompted by *The Oregonian's* reporting on scores of child fatalities in one Oregon congregation that relies exclusively on prayer to heal disease. The newspaper found that 78 children are buried in one corner of the Followers of Christ cemetery near Oregon City and that three children's

deaths in the group during the past two years were clearly preventable with medical care.

Clackamas County District Attorney Terry Gustafson decided that she could not file charges in the deaths because of Oregon's religious immunity laws and called for their repeal.

The next two pages explain Oregon charges that carry religious exemptions and what the different exemptions provide.

HR2494 is endorsed by the Oregon Pediatric Society, Oregon Medical Association, Oregon Nurses Association, and the Oregon chapter of the American Professional Society on the Abuse of Children. CHILD's lobbying for the bill is led by its Oregon coordinator, Boulden Griffith, a Hillsboro attorney.

A bill has also been introduced by Reps. Kitty Piercy, D-Salem, and Kathy Lowe, D-Milwaukee, which repeals the same religious exemptions as HR2494 with regard to children, but retains religious exemptions for caretakers of dependent

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RELIGIOUS IMMUNITY FROM CRIMINAL CHARGES IN OREGON

Oregon has laws offering religious immunity from charges of murder by abuse or neglect, first and second-degree manslaughter, first and second-degree criminal mistreatment, and nonsupport.

1. A person can be charged with **murder by abuse or neglect** if he or she causes a child's death "recklessly under circumstances manifesting extreme indifference to the value of human life" by "failure to provide adequate food, clothing, shelter, or medical care." Oregon Revised Statutes 163.115

But the law offers immunity from the charge for those who give "care or treatment solely by spiritual means pursuant to [their] religious beliefs." ORS 163.115(c)(4)

2. A person can be charged with **first-degree manslaughter** if he or she "recklessly causes the death of a child" by "failure to provide adequate food, clothing, shelter, or medical care." **Second-degree manslaughter** can be charged if the person causes the child's death "with criminal negligence" by "failure to provide adequate food, clothing, shelter, or medical care." ORS 163.118 and 163.125

But the law offers immunity from both manslaughter charges for those who give "care or treatment solely by spiritual means pursuant to [their] religious beliefs." ORS 118(B)(3) and ORS 163.125(B)(3)

Thus, Oregon parents can cause a child's death by failure to provide food, clothing, shelter, or medical care and are exempt from charges of murder by abuse or neglect and manslaughter if they testify that they prayed for the child.

3. A person with a legal duty to care for a child or who has assumed permanent or temporary responsibility for the care or supervision of the child commits the crime of **criminal mistreatment** if he or she "intentionally or knowingly withholds necessary and adequate food, physical care or medical attention from the child;" "causes physical injury" to the child, "deserts" the child with the intent to abandon him, leaves the child unattended "at a place for such a period of time as may be likely to endanger" the child's health or welfare, hides or misappropriates the child's money or property, or takes charge of the child "for the purposes of fraud."

But charges of criminal mistreatment "do not apply" to a person who provides a child "with spiritual treatment through prayer from a duly accredited practitioner of spiritual treatment as provided in ORS 124.095, in lieu of medical treatment, in accordance with the tenets and practices of a recognized church or religious denomination" of which "the parent or guardian" is a member or an adherent." ORS 163.206

Thus, Oregon caretakers may commit all the injuries to children described in the code as "criminal mistreatment" if they retain a faith healer who has been credentialed by "a recognized church" to pray for the child.

4. A person lawfully responsible for the support of a child commits “**criminal nonsupport**” if he “refuses or neglects without lawful excuse to provide support for such child.” ORS 163.555

But: “In a prosecution for failure to provide necessary and proper medical attention, it is a defense that the medical attention was provided by treatment by prayer through spiritual means alone by adherents of a bona fide religious denomination that relies exclusively on this form of treatment in lieu of medical attention.” ORS 163.555(2)(b)

This strange law says that medical care can be provided by prayer and therefore parents who pray for their children and refuse to take them to doctors cannot be charged with failure to provide medical care.

RELIGIOUS EXEMPTIONS IN OREGON’S CIVIL CODE

1. [A] child who is under care or treatment solely by spiritual means pursuant to the religious beliefs or practices of the child or the child’s parent or guardian shall not, for this reason alone, be considered a neglected or maltreated child under this section.

ORS 419.B.005(1)(f)

2. The practice of a parent who chooses for the parent or the child of the parent treatment by prayer or spiritual means alone shall not be construed as a failure to provide physical care within the meaning of this chapter, but shall not prevent a court of competent jurisdiction from exercising that jurisdiction under subsection (1)(c) of this section. ORS 419B.100

The above exemptions say that a child who is deprived of medical care is not a neglected child if the parents withhold medical care on religious grounds. The exemption laws appear in a code chapter requiring certain professionals to report suspected child abuse and neglect. Thus, they tell would-be reporters that such children should not be reported to state child protection services as children in need of help.

All seven of the above exemptions are a privilege for those who use “spiritual means alone” for healing a child. If a parent combines prayer with any physical measure, he may lose the exemption. Because of similar wording in an Ohio exemption, a prosecutor argued at trial that parents could not claim a religious defense because, in addition to prayer, they gave their baby cool baths and orange juice to relieve his fever, called an ambulance after the baby stopped breathing, and had used a shoestring to tie the umbilical cord of their first baby. The defense attorney pointed out that such a law creates an incentive not to call for medical help. *State v. Miskimens*, 490 N.E.2d 931 (Ohio Ct. Com. Pl. 1984). **Religious exemption laws reward extremism.**

adults who "knowingly and voluntarily consent" to using prayer alone for healing. This bill has 28 bipartisan cosponsors.

Rep. Starr takes the position that Oregon law already allows competent adults to refuse medical care.

Christian Scientists tout healings

Oregon's religious exemptions were enacted at the request of the Christian Science church, and the church has begun lobbying to defend them. Oregon Christian Science lobbyist Bruce Fitzwater argues that the Oregon legislature enacted the religious exemptions because of the good healing record of the Christian Science church. Christian Science letter writers in *The Oregonian* describe healings they've experienced through prayer and implore the legislature not to deprive them of the "choice" to rely exclusively on prayer for healing children's illnesses and injuries.

One writer said he had tried both medicine and Christian Science and found that Christian Science works better. His broken wrist healed with no after-effects through Christian Science, but his broken shoulder, which was set by a physician, still hurts 25 years later.

He did not offer to supply medical records on either fracture. The letter also illustrates the church's determination that its prayer cannot work together with medicine. The writer apparently does not feel free to pray about the pain in his shoulder because the bone was set by a physician.

Correction

CHILD wishes to correct a factual error in our article about Oregon laws in the 1998 #2 issue. We indicated there that the religious defense to murder and manslaughter could be used in physical abuse cases. However, it is limited to failure to provide necessities.

Taken in part from *The Oregonian*, Dec. 23, 1998 and Feb. 1, 1999.

No charges in Oregon First Born death

Though an Oregon Followers of Christ congregation with scores of child fatalities has focused public attention on religion-based medical neglect, it is not the only church in Oregon that withholds medical care from children.

In December Adrian Bellew of Halsey, Oregon, died when her umbilical cord was pinched between her body and her mother's abdomen, resulting in an inadequate flow of blood. Her parents, Clifton and Darcie Bellew, belong to the Church of the First Born, which objects to medical care. Mrs. Bellew had no prenatal care and delivered the baby at home attended only by unlicensed church midwives.

"Splitting hairs"

Linn County prosecutors decided against filing charges because the baby never took a breath and therefore was not considered alive by Oregon law.

That may well be the legal standard in Oregon: until a baby takes a breath, parents have no obligation to care for it. But Adrian Bellew's death was readily preventable. "The argument that the baby never took a breath is splitting hairs," said San Diego pediatrician Seth Asser, author of the largest study of child fatalities due to faith healing practices. With a physician assisting delivery, she, "if otherwise normal, would have breathed and survived."

The Followers of Christ in Oregon City also had a stillbirth in 1998, and the medical examiner's office commented that the rate of stillbirths among Followers of Christ seems to be several times the general average. The medical examiner determined that the Followers baby never took a breath, but did not determine what had caused it to die.

Taken in part from *The Oregonian*, Jan. 6, 1998.

Indiana deaths linked to church doctrine

Two children have died without medical care in a southern Indiana congregation of the Church of the First Born during the past three months.

On January 28, Bradley Glenn Hamm, 12, died after suffering from pneumonia for several days, according to authorities. He reportedly had not been healthy for the last four to five years.

In November, 6-day-old Aspen Daniel died of dehydration and underdevelopment. Aspen was one of a set of twins born several months prematurely.

Rituals substitute for medical care

The Church of the First Born objects to all medical attention and believes in relying only on God and rituals to heal disease. Their mothers generally do not seek prenatal care and childbirths are attended only by unlicensed church midwives.

The Hamm and Daniel families belong to a First Born church of about 100 members four miles south of Morgantown. There apparently is no pastor. There is no phone number listed for the church.

Criminal charges are not likely to be filed in either death. "We are all getting tired of these calls, but what can we do?" said Morgan County prosecutor Steven Sonnega. "We just don't see a way to make this a criminal matter."

Medical checkups could have saved children

Brian Ringer, Morgan County coroner, said Bradley apparently also suffered from congenital heart disease, which may have contributed to his death. Autopsy results are not yet available.

Ringer said medical check-ups possibly could have discovered the heart disease in time for it to be treated.

In the newborn baby's case, Ringer said common prenatal care and a post-birth checkup likely would have revealed signs of dehydration and underdevelopment.

"I'm not judging their religion," Ringer said. "I'm just saying these are things that can be overcome."

After Aspen's death, his parents agreed to let a physician visually inspect the other twin, who looked healthy.

The prosecutor said he feels his hands are tied.

In 1996, the parents of Lance Planck were brought to trial in Madison County, Indiana, for medical neglect of their son. The Plancks had fundamentalist religious beliefs against doctors and were extremely hostile to the government. They made belligerent, sensational allegations against Social Services and the court, which they circulated relentlessly on the internet and in other media. The jury could not agree on a verdict. The local newspaper took up the Planck's cause, complaining about how much the prosecution was costing the county. The district attorney decided not to retry the case.

Sonnega said he wants to avoid a similar courtroom confrontation. He said he prefers to try to approach the families with reason. "We try to be open-minded about their beliefs," said Sonnega, "but we want this to stop. We want [their kids] to grow up and make their own choices."

CHILD's view

At this point we do not know why Sonnega feels his "hands are tied." Is he intimidated by the media circus over the death of Lance Planck? Does he feel Indiana's religious exemption laws make it impossible to file charges? Or is the medical evidence weak?

Indiana's religious exemption laws are, in our view, unfortunate, but several Indiana prosecutors have nevertheless found ways to file criminal charges when children die because of religious beliefs against medical care.

Faith Assembly death rate fell after prosecutions

In the 1970s a faith-healing sect first called the Glory Barn and later Faith Assembly was founded near Warsaw, Indiana.

One scholarly journal study found the death rate among Faith Assembly infants to be 250 to 300%

higher than the statewide average. Their maternal death rates were 86 times higher. That is 8600%.

The prosecutor of Kosciusko County, where Faith Assembly was headquartered, openly stated that the sect had a religious right to withhold medical care.

In 1984, however, prosecutors in Noble and Whitley Counties filed charges in deaths of Faith Assembly children. They won convictions that were upheld on appeal. Other prosecutions in Huntington, Elkhart, and Hamilton Counties followed. Eventually, the Kosciusko County prosecutor filed charges in deaths of Faith Assembly children.

The prosecutions between 1984 and 1990 were, in our view, the main reason for the great decrease in Indiana faith deaths during the past decade. We shudder to think that the history of apathy may repeat itself until enough deaths generate enough public outrage that it drowns out the anti-government rage of the Plancks.

Taken in part from the *Indianapolis Star*, Feb. 1, 1999, and Andrew Kaunitz et al., "Perinatal and maternal mortality in a religious group avoiding obstetrical care," *American Journal of Obstetrics and Gynecology* 150 (1984): 826-31.

First Born baby remains in state custody

Six-month-old Alexis Sanderfur of Tulsa has been in a hospital against her parents' wishes since she was two days old.

Members of the Church of the First Born, Angie and Michael Sanderfur had their baby at home without medical attention. Angie's mother, Imogene Sanders, noticed Alexis' bowels had not moved and called church elders to pray for the baby.

The Church of the First Born believes in avoiding medical care and relying completely on God to heal disease. Following verses in the New Testament book of James, they call upon elders, anoint with oil, and lay hands on the sick. The Sanderfurs

estimate there are 200 families who belong to First Born congregations in greater Tulsa.

911 call gets emergency surgery for baby

A relative who does not belong to their church called 911 for help. Paramedics came to the Sanderfur home, but were refused entrance. They flagged down the police, who returned with them and took the baby to the hospital.

Alexis was diagnosed with a bowel obstruction, and a judge ordered emergency surgery.

The family was angry that the state took custody of the baby and ordered surgery. "God was fixing to do a miracle for her, but man stepped in," Alexis' mother said.

Sanders said she gave birth to her own four children at home and has never taken any of them to a doctor. God "has healed my children. So many miracles we've seen. He is a true and living God," Sanders said.

Anger about baby's care in hospital

Six months later Alexis is still in the hospital and the family is even angrier. The baby has undergone four surgeries on her bowel. She has had pneumonia and several other infections. She now has a colostomy bag, though her intestine may grow enough to allow the bag to be removed, said one of her physicians, Dr. Ali Siddiqui.

She receives intravenous feedings to supplement her formula and cereal and enzymes to help her short bowel digest food.

"Who could digest their food after what they have done to her?" Sanders asked.

"The people who made these laws need to see what's happened to her," Angie Sanderfur said. "Who could take better care of her than God?"

Cystic fibrosis denied

Alexis has cystic fibrosis; 10 percent of newborns with cystic fibrosis have bowel perforations and peritonitis, Siddiqui said. But the family denies she has cystic fibrosis despite genetic tests that confirmed it.

Sanderfur has complained bitterly that part of her bowel was removed and accuses doctors of using the baby as "a guinea pig," who "catches every germ up there."

Siddiqui replied that they are using well-proven scientific treatments without which Alexis will die.

According to the law, the doctors have to ask the parents for permission for every treatment. After the parents refuse, the hospital calls the Department of Human Services for authorization. The procedure seems only to exacerbate the family's hostility.

The state has agreed not to charge the parents for neglecting and refusing to provide Alexis with medical care, but the Sanderfurs say they are considering filing complaints against the doctors.

Siddiqui is not certain they can ever have custody of their daughter.

Can Sanderfurs care for chronically ill child?

Cystic fibrosis causes thick secretions to form in the lungs. Both the lung disease and the short bowel syndrome will require daily management, vigilant attention, understanding of the disease processes, and optimum cooperation and trust between physician and parents.

Children with cystic fibrosis typically live into their twenties today and some live into their forties or fifties. Because it is a chronic, fatal illness and because it is strongly hereditary, many parents who have a child with this disease decide not to have more children. But those who do not believe in science do not have a basis for informed decisions.

Taken in part from *Tulsa World*, Jan. 24, 1999.

Montana baby gets lockjaw; mom objected to vaccines

A 9-day-old baby girl was taken to a Montana hospital in March, 1998, unable to nurse because she could hardly open her jaw. A foul-smelling discharge came from her umbilical cord, which was covered with dried clay.

The diagnosis: tetanus caused by a bacteria widely present in soil and animal excrement.

For home umbilical cord care, the parents applied a "Health and Beauty Clay" powder provided by a state-licensed midwife to accelerate drying of the cord. The powder was not sterilized during manufacturing.

The girl's mother lived near a horse pasture, which was another possible source of the bacteria that caused the tetanus.

Finally, the baby's mother had never been vaccinated because she and her parents had philosophical objections to vaccination.

After weeks of intensive care, including 12 days on a ventilator, the baby was discharged with no apparent neurologic sequelae. At a follow-up examination at age 7 months, her development appeared normal, but her mother still had not initiated her vaccination series because of concern about potential adverse effects.

The midwives, however, did stop recommending non-sterile products for umbilical cord care.

Neonatal tetanus is extremely rare today because of vaccination. There have been only 3 U.S. cases since 1984, and the mothers of all 3 babies were unvaccinated or inadequately vaccinated. In 1900, 64 of every 100,000 U.S. infants died of tetanus.

Taken from *Infectious Diseases in Children*, January 1999.

Nixon conviction upheld on appeal; mature minor arguments rejected

On January 4, the Pennsylvania Superior Court upheld the manslaughter conviction of Dennis and Lorie Nixon for letting their daughter Shannon die of untreated diabetes in 1996. The Nixons of Altoona, Pennsylvania, belong to Faith Tabernacle Church, which discourages medical care.

Shannon, age 16, became weak, dizzy, and nauseated. She lost weight and was constantly thirsty. Her entire church congregation prayed for

her, and the pastor, who was also her grandfather, anointed her with oil at her request. She died in a diabetic coma.

Brother's children died of diabetes

Dennis and Lorie had reason to know diabetes ran in their family long before Shannon died. Dennis's brother Charles and his wife Eileen, also members of Faith Tabernacle, have let two of their children die of diabetes without medical attention. Their son Charles Jr. died in 1988 at ten years old. Their daughter Karyn died in 1993 shortly before her third birthday. One of the deaths occurred when Dennis and Lorie were at Charles and Eileen's home in Mays Landing, New Jersey, and they were interviewed by police about the death.

New Jersey filed no charges in either death.

No medical care required for probation

In 1991, Dennis and Lorie Nixon let their son Clayton, age 8, die of severe malnutrition and dehydration after contracting ear and sinus infections, which caused him to vomit repeatedly. He was 49 inches tall, but weighed only 32 pounds at his death. They pled no contest to manslaughter charges and were sentenced to two years probation, a \$150 fine, and 120 hours of community service in a hospital, which the judge apparently thought would teach them the value of medical care. But the judge did not require them to seek medical care of their surviving children during their probation, and no hospital would accept them for community service.

They were convicted by a jury for Shannon's death and sentenced to five years in prison and a \$1000 fine. They will be eligible for parole after serving 30 months each.

Rights of mature minor raised

On appeal the Nixons claimed their trial lawyer was inadequate because he failed to raise (1) Shannon Nixon's right to refuse medical treatment within her right of privacy guaranteed by the U.S. and Pennsylvania constitutions, (2) Shannon's ability to refuse medical treatment as a mature minor, and (3)

a violation of her parents' due process rights given by a statute authorizing spiritual treatment.

The Pennsylvania Superior Court ruled, however, that their lawyer had raised those arguments at trial and the lower court had rejected them. The Nixons pointed out that Shannon was nearly 17 when she became sick and had repeatedly expressed her personal choice to rely only on God for healing. The parents argued that her maturity abrogated their duty to care for her.

The appeals court disagreed, saying,

Although Shannon, as a mature minor, had a right to refuse medical treatment pursuant to her constitutional right to privacy, this right does not discharge her parents' duty to override her decision when her life is in immediate danger. Our Supreme Court, in *Green Appeal*, 448 Pa. 338, 292 A.2d 387 (1972), permitted a sixteen-year-old boy to refuse to undergo an operation based upon religious beliefs. However, the permission to refuse medical treatment extended to minors in *Green* was strictly limited to situations in which the minor's life was not threatened. Thus, *Green* did not provide Shannon with the legal means to refuse medical treatment at a time when her life was in danger.

In *Green*, a Jehovah's Witness teenager needed surgery to correct curvature of the spine, but objected to blood transfusions that might be necessary. The court ruled that the surgery could safely be delayed until he reached age 18, when he could make his own choice as an adult whether or not to have it.

Conviction in teen's starvation death upheld

The Superior Court also cited *Commonwealth v. Cottam*, 616 A.2d 988 (Pa. Super. 1992). Larry and Leona Cottam of Nuangola, Pennsylvania, let their 14-year-old son Eric starve to death in 1989 because they were too proud to go on welfare and expected God to provide for their family. The 5' 10" boy weighed 69 pounds at his death and had not eaten for many weeks. Mr. Cottam, a former Seventh-Day Adventist minister, had nearly \$4,000 in savings, but would not use it to buy food because

he considered it a tithe belonging to God. He also refused to send his children to public school where they would have qualified for school breakfast and lunch programs.

The Cottams' lawyer argued that their children had "constitutional rights to exercise their religious beliefs." He claimed that the children knew they were dying, but that the whole family had made a joint decision to trust God to provide and therefore the parents had no duty to provide food for their children.

The Superior Court ruled, however, that even if the children were "mature enough to freely exercise their religious beliefs," the parents still had a duty to "provide them with parental care, direction and sustenance" while the children were "in their care, custody, and control."

The Nixons also cited a religious exemption law in the civil code as giving them a right to rely on prayer alone for healing their child. The appeals court held, however, that the exemption did not apply to the crime of manslaughter.

Prison term "well justified"

At trial the Nixons asked the court to instruct the jury that they were acting under "a mistake of fact"—their belief that "their daughter would not die and the Lord would intervene." The court, however, refused, citing their trial testimony that they believed God was "the giver and taker of life."

While the Nixons "had hope and faith that divine intervention could cure Shannon, they also knew it might not," said the Superior Court in upholding the trial court.

The Nixons also argued on appeal that the trial court "abused its discretion" by imposing a prison term longer than that recommended in the sentencing guidelines. Blair County Common Pleas Court Judge Norm Callen pointed out that they had let their son Clayton die and had been convicted for their crime several years before Shannon became ill. In sentencing them to five years in prison, Callen said they seemed to be incapable of rehabilitation and there was a strong possibility they would

withhold medical care from their nine surviving children. The appeals court called Callen's sentence "well-justified."

Parents must care for teenagers

The appeals court's ruling on the much-talked about "mature minor doctrine" is especially important, in CHILD's view. Adolescents are indeed capable of forming personal religious convictions, but that does not abrogate a parent's duty to provide them with necessities of life. As a Fordham University task force sensibly stated, the amount of freedom children should be given to make decisions depends in part on the consequence of those decisions. No one under 18 should be allowed to do without necessary food, clothing, shelter, or medical care, regardless of his beliefs.

See 64 *Fordham Law Review* (1996), "Ethical issues in the legal representation of children."

Scrutiny of polygamy continues in Utah

A brave teenager who escaped polygamy and incest, the death of a teen mom in childbirth, and the care of her handicapped child have been catalysts for a series of major articles scrutinizing polygamy in the *Salt Lake City Tribune* and for some changes in the attitudes of public officials.

The first girl, whose name has not been released, was allegedly forced to become the fifteenth wife of her uncle as reported in the CHILD newsletter 1998 #2. Her parents are half-sister and brother. The Kingston clan into which she was born regards polygamy as a religious duty, the way to the celestial kingdom. Twice she ran away, but her mother turned her over to her father, who allegedly beat her until she passed out. The girl walked for miles to a public phone and called the sheriff.

She dropped out of middle school three years ago. Her ceramics teacher recalled asking her about her poor attendance and her reply that she was needed at home or was sick. Neighbors recalled that

she tended and cooked for her numerous brothers and sisters, but rarely spoke.

She worked at clan-owned businesses. The girl was paid in "credit" slips that could be redeemed at other clan-operated stores, state social workers confirmed. Ex-members say rent from Kingston houses, other debts and the obligatory ten percent tithing is deducted from workers' credit slips.

She remains in the custody of the Utah Division of Child and Family Services (CFS). She was tutored through the summer and is now enrolled in high school, which she says she desperately wants to do. CFS has set up a trust fund to help with her education expenses.

Incest a religious duty

Scholars say that some polygamous communities in Utah have strict prohibitions on incest, but the Kingston clan on the Utah-Idaho border, according to ex-members, has innumerable incestuous liaisons.

Indeed, incest becomes a religious duty in their belief system. Ex-member Rowenna Erickson said, "We were taught that we were like [the biblical] Abraham of old, who supposedly married his niece. They intermarry because they believe they are of royal lineage." The most regal line in this group are John Ortell Kingston's eight sons.

Half the genes of incestuous couples are identical. Their children have a high likelihood of getting two of any of their parents' recessive genes for diseases and deformities. Congenital birth defects, low intelligence, mental retardation, impaired fertility, and weakened immune systems are common among inbred children. University of Utah genetics professor Lynn Jorde said research indicates that a fourth to a half of children born of incestuous relationships have physical and/or mental problems.

First incest and abuse charges against clan

The runaway girl's father, John Kingston, has been charged with child abuse. His brother, David Ortell, reportedly married to another niece and his half sister, is charged with one count of unlawful sexual conduct and two counts of incest. The charges, involving only the runaway 16-year-old girl,

launch one of the first legal inquiries into the mating habits of a Utah polygamist group and are believed to be the first incest charges against a Utah polygamist in modern times.

Another child in the Kingston clan did not escape with her life. She died in 1992, but an investigation into her death was reopened in 1998.

Andrea Johnson was born in 1976, the eleventh child of Isabell Johnson and a fictional truck-driving father named Steven Joseph Johnson, whose name turned up on her funeral notice and her death certificate. But according to her sister, Connie Rugg, and the findings of a state investigation in 1983, all of Isabell's thirteen children are the offspring of John Ortell Kingston—the prophet who built the 1,500-member Kingston clan into a multimillion-dollar business empire while allowing many of his purported 13 wives and dozens of children to survive on government assistance.

Andrea grew up in a small two-bedroom home in a Kingston-owned coal yard. Her mom, brothers and sisters shared the tiny quarters with another of John Ortell's wives and her children, Rugg said.

"Celestial marriages" not recorded

Rugg and another former clan member confirmed that Andrea married her teen-age half-brother, Jason, in a secret ceremony. As is customary in the polygamous community, the "celestial marriage" was not recorded with the state.

Living with her purported husband and mother-in-law, Andrea was almost five months pregnant in 1992 when her kidneys stopped working properly, her blood pressure shot up and her 15-year-old body swelled. Two of her sisters had had the same symptoms during pregnancy and been diagnosed with pre-eclampsia, which is readily treatable.

Secrecy on incest discourages medical care

Andrea grew sicker and sicker, but neither her "husband" nor her polygamous mother-in-law, LaDonna Kingston, would take her to the hospital. They hesitated, Rugg claimed, out of fear that hospital staff would want to determine the father of Andrea's baby, and his relationship to the mother.



Andrea at 12

That fear, Rugg said, stemmed from the state suing Jason's father, John Ortell, in 1983 for massive welfare fraud—linking Ortell to four polygamous wives who claimed they were single mothers needing state assistance for their 29 children. Andrea's mother, Isabell Johnson, was one of those wives.

Rugg contends the family worried about leaving a similar trail of evidence that might have led to incest charges—a felony—against Jason.

According to Rugg, LaDonna phoned Isabell who lives on a Kingston-owned ranch in Utah's west desert and told her Andrea needed medical attention. Johnson sped the 170 miles to Andrea's home in Salt Lake City.

Blind and swollen

Andrea was swollen beyond recognition, Rugg said. "She was in bed screaming, 'Why won't anybody help me?'" Rugg said the swelling affected her brain, causing it to crush against the skull and her retinal nerves. "She was blind by the time Johnson took her to the hospital," Rugg said.

Three days after Andrea was taken to a hospital, doctors performed a Caesarean section. The baby survived, but eleven days later, Andrea died in the hospital of a brain hemorrhage brought on by eclampsia.

Hospital records and her death certificate do not list her as having a husband, but the owner of her burial plot is listed as "J.O. Kingston."

Mother denies illness was serious

"My daughter was well and happy, then she got sick all of a sudden one day," Johnson told the press. "We just thought it was the flu. . . . So I came in from [the desert] to see what was wrong and I took her to the hospital that day."

Rugg claimed that her mother was very worried about Andrea's swelling for a month before she intervened and a sheriff's deputy remembers seeing severe edema. Isabell Johnson, however, claimed Andrea was not swollen when she arrived.

Johnson refused to explain why another family member couldn't have driven Andrea the few miles across town to the hospital. "What does it matter?" Johnson asked. "It has been six years."

State returns baby to dad

Claims of neglect against the family were "substantiated" by the Utah Division of Child and Family Services (CFS), who determined Andrea's death could have easily been prevented with prompt medical care. Yet CFS placed Andrea's baby with the same family whose alleged neglect led to her death because, the Department said, the referral they got was not on risk to the baby, but to his mother.

The whereabouts of Andrea's son were unknown to CFS in 1998, but *The Tribune* found the boy living with his father, Jason Ortell, and Jason's new wife, Rosalind Kingston, who is also his niece, according to a sworn deposition by Rosalind's mother in a 1994 civil case.

"We are probably going to have some orientation or training sessions for working with the polygamous culture," a CFS official said recently. "But our position is real clear: if a child under 18 is having sexual relations with an adult and it is not a legal

marriage, then sexual abuse has occurred Incest is also a form of sexual abuse [and it] would also be grounds for removal of a child."

No victim, no complaint, no investigation

Yet the state has never challenged the incest reportedly going on in Jason Ortell's family. In 1992, CFS took no action because the report it had on incest could not be substantiated, though officials admit they do not know whether the report was investigated. The statute of limitations for incest in Utah is four years, so Ortell could not be charged for incest with Andrea. And, though court records from a civil suit allege that Jason is now married to a niece, no incest charges have been filed on that relationship either.

"Nobody has stepped forward to make a complaint," the Salt Lake County Sheriff's office said. "There isn't a victim willing to step forward."

In August, 1998, with the national spotlight on polygamy, the sheriff's office did reopen an investigation into Andrea's death. It had attempted to investigate in 1992, but University Hospital claimed then that Andrea's medical records were lost.

In 1998, the hospital soon reported that it had her records.

Investigation dropped again

Within a few weeks after the investigation into Andrea's death was reopened, however, authorities said they were dropping it. The sheriff's office said the adult immediately responsible for the girl's care, LaDonna, has since died, thus ruling out charges.

The only other likely suspect, her purported husband, Jason Kingston, was 17 when Johnson died. Detectives say there is no evidence to suggest Jason was negligent during his half-sister's pregnancy. And, even if there were, Jason was a juvenile at the time and in Utah, minors charged in the juvenile court can be punished only until they are 21.

Child removed from school

Tribune articles raised a number of concerns about Andrea's son, also named Jason. He reportedly has cerebral palsy and little motor control, but

has normal intelligence. Medical experts say cerebral palsy in infants often is caused by premature birth and that pre-eclampsia, left untreated, causes a 400 to 500% greater risk of premature birth and congenital problems.

In the spring of 1996, Jason was enrolled in a special-education preschool class designed to augment speech and physical therapy he was getting. But after January 1997, his father or stepmother removed him from the class.

By mid-September 1998, Jason was still not enrolled in school nor had his caretakers requested a home schooling exemption. Yet CFS closed its investigation into his welfare, which had begun when the sheriff reopened his investigation into Andrea's death (see article below).

Condensed from *Salt Lake City Tribune* articles of June 3, June 16, July 19, Aug. 2, Aug. 5, Aug. 23, Aug. 25, and Aug. 30.

Case of young mom's death is dying; Boy can stay with father in another incestuous marriage

An incestuous man and wife who are prominent members of the polygamous Kingston clan can continue rearing a disabled 6-year-old boy, himself the product of incest, the Utah Division of Child and Family Services (CFS) has concluded.

The decision raises a legal question about what constitutes cause for a removal of a child from a home where laws are being broken. Incest is a third-degree felony in Utah.

Jason Kingston and his wife Rosalind Kingston, who is also his niece, according to a sworn deposition by her mother, have been caring for the boy since his 15-year-old mother died days after giving birth.

Jason Kingston is the child's father. His mother was Andrea Johnson, Jason's half-sister, according to evidence gathered from past state investigations.

A CFS official said the child is well cared for, even though the family has not complied with state laws requiring that the boy be in school or that he be granted a home-school exemption. The child has cerebral palsy and uses a wheelchair. He had previously attended classes designed for students with special needs in Salt Lake City School District.

"We feel he is safe and getting some of the special services he needs," said CFS Director Ken Patterson.

Incest environment abusive to kids

But for a child to live in an incestuous household is tantamount to child abuse, says Michael O'Brien, the attorney who helped push through a landmark settlement with the state that led to the Child Welfare Reformation Act of 1994 requiring mandatory improvements of child-protective services.

The reform act defines child abuse or neglect as anything causing damage or threatened damage to a child's physical or emotional health.

"The very fact that the child is being raised in a home where criminal conduct is accepted and advocated creates a harmful environment to that child," O'Brien said. "If you have a situation where a family is advocating and practicing incest, it seems reasonable to assume that the child is going to become a victim of incest."

Patterson reopened the division's six-year-old file on the boy after the Salt Lake County Sheriff's Office renewed a probe into the death of his mother.

Andrea Johnson died of eclampsia, a treatable blood disease common during pregnancy, days after delivering her son in 1992. CFS has concluded that Johnson would have lived with proper prenatal care, Patterson said.

Johnson's sister, Connie Rugg, has said that Andrea suffered for weeks while the Kingston family delayed taking her to the hospital for fear that the child's incestuous lineage might be discovered.

O'Brien says those allegations should have raised eyebrows with CFS. "If the child's mother died because [the family] was trying to cover up

their incestuous practices, why wouldn't the child face the same risk—especially if this is a child that requires special care?" O'Brien said. "Those all seem to be points that suggest that the state has the power to intervene."

State satisfied with "friendly" family's care

Patterson would not address the issue of incest in the family. "I don't want to comment on that," he said. "As far as Andrea Johnson's child, the principal focus was his well-being right now. We were received in a friendly, open nature by the family and we are quite satisfied by his care."

Taken from *The Salt Lake City Tribune*, Sept. 17, 1998.

Incest, welfare fraud, and 14-year-old brides

The Salt Lake City Tribune series has uncovered other problems with polygamy than those of the three children mentioned above.

One is massive welfare fraud and tax evasion. *Tribune* reporters Dawn House and Ray Rivera painstakingly tracked how clan prophet John Ortell Kingston avoided paying millions of dollars in probate taxes by deeding his land holdings to corporations in which his heirs are officers and his remaining fortune to the Latter Day Church of Christ, which his heirs now control.

Tax evasion

Kingston left nothing to the 65 or more children he fathered. By his death, however, his heirs were officers in corporations that had received title to at least 60 commercial buildings, homes and property in their father's name. Their names were found in a confusing tangle of interlocking corporations with similar boards, registered agents, and mailing addresses.

Towns with another polygamous enclave on the Utah-Arizona border have one of the highest welfare participation rates in the West. Taxpayers have paid

for an airport, roads, fire protection and sewers, improving property in towns where virtually all private land is owned by a polygamous church. Taxpayers also rehabilitated church-owned homes—in which residents must pass a faith test or face eviction.

Welfare fraud

Jason Kingston recently resigned his position as state auditor after the state started investigating medical benefits he claimed for his wife, Rosalind, who is also his niece.

In the 1980s Utah brought a civil suit against clan prophet John Ortell Kingston for having four of his wives collect state welfare money for his children. Ortell paid the state \$250,000, including \$60,000 to reimburse Medicaid for bills for a child born with severe birth defects, who investigators said Ortell likely conceived with a close relative.

On Sundays, the wives attended services at their polygamous church. They wore long, plain dresses, lived in a coal yard in what appeared to be abject poverty and told sordid tales of cavorting with truck drivers and railroad employees.

They collected hundreds of thousands of dollars in public assistance in ten years, despite the estimated \$70 million empire of the father of their 29 children, a man investigators say was polygamy leader John Ortell Kingston.

“On the applications for welfare and birth certification, the women all said they were so-and-so Johnson or Jensen and they only saw the father of their kid once and then he disappeared,” said Randall Skeen, a former deputy Salt Lake County prosecutor who sued Kingston in 1983 over the welfare payments.

One of the four women, Isabell Johnson, bore 12 children in 18 years for Kingston, and one of those children was Andrea Johnson, who died of complications from childbirth (see above).

DNA tests prove paternity

Investigators used DNA tests to determine that all 29 children had come from the same father. Even so, the women insisted the fathers were truck drivers

—or men they had met at a night club or in the coal yard.

After two of the four women took polygraph examinations and the state obtained subpoenas for a sample of John Ortell Kingston’s tissue, Kingston settled the paternity cases.

As part of the settlement, Kingston refused to acknowledge paternity and the state dropped the subpoena for paternity tests. Criminal charges were never filed.

4-year statute of limitations

The quick closure and caveats irked some investigators, but when Kingston paid, Utah took the settlement. One problem was that a statute of limitations prevented the state from going back more than four years to check on the welfare payments collected by Kingston’s children.

During the next 10 years, the Office of Recovery Services collected an additional \$100,000 to \$150,000 from the polygamous Kingston Clan based on new disputed paternity claims.

Investigators said the state developed “a gentleman’s agreement” with attorney and clan member Carl Kingston. When they found clusters of people on welfare who should not have been, they would take an accounting over to Carl and soon a check was in the mail and the family was off welfare.

One element of the women’s stories was true—two of the families did live in a cramped shack in a coal yard (owned by the Kingstons).

Little girl’s hunger for a dad

Andrea Johnson’s mother, Isabell Johnson, lived in that coal yard with her twelve children, says Isabell’s oldest daughter, Connie Rugg. Isabell Johnson told her children their father was a truck driver. Each weekday, Rugg and her brothers and sisters would walk down the industrial lane from their home to catch a school bus. On their way, they’d see big trucks roll past.

“We’d try to get the truck drivers to honk their horns because we thought one of them might be our dad,” Rugg said.

When she was eight, her mother told her the truth. "She took me into the bedroom and she asked, 'If you could choose any one to be your father, who would it be?' I said I didn't know because I couldn't think of any men I liked. But she insisted that I choose so I chose Ortell because in our family he was a god. He was admired more than any other person.

"She said, 'Well, that's who your father is,' and she seemed happy that I chose him."

Polygamy clan leaders tell members to get on welfare and Medicaid even if it means hiding income, ex-members charge. Most members have to work in clan-owned businesses. They shop at family-owned stores and make purchases using tickets given by their employers. Most jobs pay minimum wage with a 25-cent bonus per hour for every child a wife has.

Besides the problem of lax enforcement of Utah laws against incest and polygamy, the *Tribune* series has uncovered the need to change existing Utah laws. The 4-year statutes of limitations on incest charges and welfare fraud prevent the state from protecting children appropriately.

Eagle Forum wants 14-year-olds married

Finally, Utah is one of only three states that allow fourteen-year-olds to marry. Last year a bill to raise the age was narrowly defeated. In 1999 the Utah House has already passed a bill to raise the minimum age of marriage to sixteen with the only exception that judges can allow marriages of "mature" fifteen-year-olds.

The Eagle Forum, a national right-wing organization led by Phyllis Schlafly, opposes the bill, charging it will increase abortion, cohabitation, and motherhood out of wedlock. The Eagle Forum wants judges to have authority to permit marriages of fourteen-year-olds.

Taken from *The Salt Lake City Tribune*, Aug. 16 and 23, 1998, and Jan. 1999.

Utah politicians backpedal on polygamy

Utah Governor Mike Leavitt was asked last summer why polygamy was not prosecuted. Himself the great-great grandson of polygamists, Leavitt first said, "It might enjoy religious freedom." He praised the character and work ethic of most polygamists and wondered if visitors for the Olympics shouldn't just get used to the idea of polygamy.

He was forced to backpedal after ridicule from late-night talk shows, national press coverage of a Utah girl who escaped from a forced polygamous marriage, and outcry from Tapestry of Polygamy, a newly formed organization of women who have left polygamous marriages. A month later he said, "I believe polygamy is against the law, and it should be. A claim of religious freedom is no excuse, legally or otherwise, for inhumane, degrading and criminal conduct of any sort."

Utah's U.S. Senator Orrin Hatch, also a descendent of polygamists, said in a taped interview on polygamy that "many people" raise the "principled argument" that "legitimate, heartfelt religious beliefs, even though repugnant to the government, have to be recognized by the government."

"There's a tremendously competent constitutional argument in favor of that," he added.

Hatch acknowledged that the U.S. Supreme Court upheld state laws against polygamy in 1878, but still claimed that "the Constitution is ambiguous with regard to this" because "it provides for religious freedom." First Amendment rights should be more "broadly construed," he argued.

But the unnamed runaway girl and the national spotlight have forced Utah's politicians to express opposition to polygamy. Later Hatch said, "My bottom line would be that polygamy is against the law. It is against the beliefs and teachings of my church ... and I agree that it is wrong. I wish nobody would practice plural marriage, but I don't condemn those that practice it."

Later still Hatch said the Constitution is "not ambiguous" on polygamy and that he would not change the law even if he could.

Condensed from *The Salt Lake City Tribune*, Aug. 9 and 29.

Will polygamy become legal?

Although Utah politicians continue to condemn polygamy (see above), some observers see courts gradually sanctioning it. University of Michigan law professor David Chambers said the gay rights movement will change American attitudes toward polygamy. In modern polygamous and lesbian households, he wrote in the *Hofstra Law Review*, "little Heather has two mommies, and more and more Americans believe that if Heather is doing well, then having two [or more] mommies is just fine."

In an age when sex between consenting adults is not considered a crime, there is less political will to enforce 19th-century anti-polygamy laws. "If polygamists are not breaking other laws, we won't prosecute," said a Utah prosecutor.

Must public officials and attorneys obey the laws?

Murray, Utah, policeman Royston Potter was fired for polygamy and sued the city, charging the termination violated his right to privacy and to the free exercise of religion. In 1985 a federal appeals court ruled against Potter and upheld a lower court ruling supporting Utah's laws against polygamy.

About the same time, though, the Arizona Supreme Court issued an opposite finding, saying town marshal Sam Barlow could not be decertified for having three wives unless his polygamy jeopardized public trust.

Linda Walker, who heads the Child Protection Project in San Francisco, and Utah attorney Douglas White have filed complaints with the Utah Bar Association against polygamous attorneys Carl and Paul Kingston, who have sworn an oath to uphold all of Utah's laws. The bar has yet to rule.

Right to adopt

Vaughn Fischer, a polygamist and construction worker in Hildale, Utah, filed for custody of six children born to his third wife Brenda. They had been married for six weeks before her death.

A trial judge ruled Fischer could not adopt because of his "criminal conduct" in teaching and practicing polygamy. Fischer appealed.

The Utah Supreme Court reversed the decision, stating, "The fact that our [state] Constitution requires the state to prohibit polygamy does not necessarily mean that the state must deny any or all civil rights and privileges to polygamists." It ordered the lower court judge to determine if Fischer and his wives are fit parents, regardless of their open practice of polygamy.

Justice Richard Howe sharply disagreed with the 3-2 ruling: "It would be difficult to conceive of a factor which works more against the interest of the children than ongoing criminal conduct by the adoptive parents," he wrote. Teaching "the children on a daily basis that the statute proscribing bigamy and polygamy may be ignored and [flouted] may well breed in the children a disrespect for other laws."

Polygamists can be denied housing

In 1996, polygamists Henry, Mark and Hyrum Barlow sued Utah landowners who refused to sell lots to them. The clan alleged the defendants had violated the Federal Fair Housing Act by refusing to sell, based on religion.

Judge Dee Benson dismissed the complaint, ruling that because polygamy is illegal, it does not qualify for protection.

Bigamy is criminally prosecuted in Utah and elsewhere if one wife is led to believe she is the only spouse. But no one in the United States has been prosecuted for polygamy since the 1950s. And in 1992, authorities decided not to charge leaders of a 50-member polygamous commune in Creston, British Columbia, concluding laws against plural marriage unconstitutionally restricted religious freedom.

“Above the law”

Mormon colonizer Brigham Young declared that he lived “above the law” and so did his people. For them salvation depended on the number of wives and children sealed to a husband. Young’s secretary George Reynolds was convicted for polygamy. He argued that it was a religious duty.

But the U.S. Supreme Court ruled against him in 1878, calling polygamy “an offense against society.” Letting the First Amendment exempt Reynolds from criminal laws, wrote the Court, “would make the professed doctrines of religious belief superior to the law of the land, and in effect . . . permit every citizen to become a law unto himself. Government could exist only in name under such circumstances.”

Reynolds v. United States, 98 U.S. 145 (1878) is still cited today as a landmark ruling on the limits of religious freedom. Yet in the aftermath of the sexual revolution, polygamy may become a lifestyle choice allowed by society.

Taken in part from *The Salt Lake City Tribune*, June 28 and July 31, 1998.

Final thoughts

The forty-some articles in *The Salt Lake City Tribune* show Utah’s high concern about its image (even before the Olympic bribery scandal broke). Residents are highly aware that the eyes of the world will be upon them during the Olympic games and are embarrassed by what *The Washington Post* calls “Utah’s best-kept dirty little secret”: the clans whom the Western states allow to practice polygamy illegally.

We are struck by the more painful spotlight that victims of incest must endure. Imagine growing up with the idea that incest was a religious duty and then escaping to life in the outside world, which regards incest with horror. One thinks of the drama of King Oedipus stabbing his eyes out in self-loathing when he learns he has been sleeping with his mother.

The children born of incest or forced into it may leave their clans, but they cannot escape their genes

or the world’s revulsion. How will they muster the courage to love and trust themselves? How will they come to believe that life on the outside could be better than the degradation they were born into? Those who escape deserve our admiration—and our gratitude, for they have made several good things happen in Utah.

Even if polygamy is legalized, incest, sex with minors, and forced marriages should certainly be prohibited. The state should make decisions about child placement based on the child’s physical, intellectual, and emotional well-being. Home schooling should be better regulated. The age for marriage should be set high enough so that a child has some hope of seeing life outside of her own community and imagining what options for her life are available. Finally, parents should be required to support all the children they bring into the world.

Tapestry of Polygamy has a web site at <http://www.polygamy.org>. Its mission is “unraveling the tapestry of polygamy, creating a voice and a choice for those wishing to exit the polygamous lifestyle.”

Religious exemption for Amish reintroduced

A bill to provide a religious exemption for the Amish from child labor laws has been reintroduced in the U.S. House by Congressman Joe Pitts, R-PA, and 13 bipartisan co-sponsors.

The bill, H.R. 221, amends the Fair Labor Standards Act of 1938 to allow children 14 years old or older, who belong to a religious sect “whose established teachings do not permit formal education beyond the eighth grade,” to work full-time in processing wood products.

The bill also provides that the child must be supervised by an adult relative or an adult member of the same religious sect to which the child belongs, that the child cannot operate or assist in the operation of power-driven woodworking machines, and that the child must be protected from wood parti-

cles, other flying debris, excessive levels of noise, and saw dust.

The bill is opposed by the U.S. Department of Labor, the National Child Labor Coalition, and CHILD Inc.

Not all the Amish are the simple, bucolic people of the public stereotype. Some who have lobbied for this bill make millions of dollars from their factories. Letting them hire fourteen-year-olds fulltime creates a financial incentive to deprive children of education, recreation, social interaction, and time for reflection. The bill also has the government offering parents and clergy a financial incentive to claim religious beliefs against high school education.

In a letter to Congress, CHILD points out that a religious exemption carved out for the Amish will inevitably be used by others as well. Some of the religious groups reported on in our newsletters may be quick to drop any pretense of educating fourteen- and fifteen-year-olds, if the government gives them a religious right to hire such children fulltime.

U.S. Labor Secretary Alexis Herman wrote that the lumber and wood products industry is "particularly hazardous work for adults let alone children" with an occupational fatality rate nearly five times the national average for all private industry in 1997.

She also reported Justice Dept. concerns about constitutionality with the bill requiring Labor Dept. investigators to obtain information about religious beliefs of minor employees and their supervisors.

Nevertheless, the House Education and Workforce Committee passed the bill by voice vote without hearings. A similar bill passed the House last year and died in the Senate.

Swan publishes law review article

CHILD president Rita Swan has an article in the *Quinnipiac Health Law Journal*, v. II, issue 1, entitled "On statutes depriving a class of children of rights to medical care: can this discrimination be litigated?" Swan discusses statutes providing religious exemptions from preventive and diagnostic

health care and from civil and criminal charges. She also discusses efforts to obtain court rulings that these exemptions violate the right of children to the equal protection of the laws guaranteed by the Constitution.

The *Journal* issue is a symposium on "Moral, Economic, and Social Issues in Children's Health Care." Other contributors include Connecticut Congresswoman Rosa DeLauro and Judge Charles Gill, co-founder of the National Task Force on Children's Constitutional Rights and an honorary member of CHILD.

About CHILD

CHILD is a tax-exempt educational organization working to protect children from religion-based abuse and neglect. The CHILD web page is at <http://www.childrenshealthcare.org>.

Membership in CHILD is by application. Dues are \$25 a year or \$15 for full-time students. Dues-paying members receive the newsletter.

The next issue of the CHILD newsletter will feature developments in CHILD's suit against the federal government for its Medicare and Medicaid payments for "religious non-medical health care."

CHILD is appealing from summary judgment to the Eighth Circuit, U.S. Court of Appeals. The following organizations filed briefs in support of CHILD's appeal: American Academy of Pediatrics, American Medical Association, American Nurses Association, Iowa Medical Society, Minnesota Civil Liberties Union, Americans for Religious Liberty, American Humanist Association, and Council for Secular Humanism.

The Christian Legal Society of Annandale, Virginia, is filing an amicus brief in support of the federal government and the Christian Science church, which entered the case as defendant-intervenor.