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Equal rights for children under the law

Missouri's Capitol

A victory in Missouri

Since the U.S. Supreme Court ruled the federal Religious Freedom Restoration Act (RFRA) unconstitutional in 1997, state versions of the act have been introduced around the country. RFRA bills have come before the Missouri legislature in each of the last three sessions. This year one was enacted, but CHILD was able to get important modifications.

The bill as introduced provided that "a governmental authority may not restrict a person's free exercise of religion" unless the "restriction is in the form of a rule of general applicability," the authority demonstrates that the restriction "is essential to further a compelling governmental interest" and uses "the least restrictive means" to do so.

An additional caveat was that the act did not "establish or eliminate a defense to a civil action or criminal prosecution" based on a civil rights law. Thus, an employer could not refuse to hire African-Americans, for example, even if his refusal was based on his religious beliefs.

"Exercise of religion" was defined as an act or refusal to act that was "substantially motivated by religious belief," whether or not the exercise was compulsory or central to a larger religious belief system.

The bill was supported by a great many Christian and Jewish groups. The Christian Science church testified for the bill.

It passed the Senate without a single dissenting vote.

CHILD wrote to an inter-denominational coalition of proponents to express our concerns about abuse and neglect of children that might be allowed under the bill.

The coalition dismissed such concerns, arguing that children would still be protected as a compelling state interest. They also said they wanted a "clean" bill with no amendments.

CHILD president Rita Swan then went to Jefferson City and testified against the bill in the House Judiciary Committee. Chairman Richard Byrd said Swan had raised "compelling" arguments.

The next week the committee amended the bill. "Least restrictive means" was changed to means that are "not unduly restrictive considering the relevant circumstances."

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Also a section was added stating that the bill could not be construed "as allowing any person to cause physical injury to another person, to possess a weapon otherwise prohibited by law, to fail to provide monetary support for a child or to fail to provide health care for a child suffering from a life threatening condition."

The Senate initially refused to accept the House changes, but later agreed to them, and Governor Bob Holden signed the bill into law.

No end to work in Missouri

Child advocates were run ragged in Missouri this year by the state's alarming fiscal crisis. Health insurance for poor children and many other programs were threatened.

Also, several bills in the state legislature dealt with exemptions from child health and safety laws on religious or philosophical grounds.

First, bills were introduced in both the House and Senate to allow exemptions from immunizations for children in schools and day cares because of parents' "philosophical beliefs." The Senate bill required the parents to sign a statement that they had reviewed materials for and against vaccination and had made an informed decision to refuse it.

Bill returned state to poor standards of past

Missouri in fact used to allow exemptions for any child if a parent objected in writing for any reason. In 1992, when the law was changed to limit the exemptions to medical contraindications and religious objections, only 43% of Missouri two-year-olds were appropriately immunized, the fifth worst rate in the country.

The 2003 Senate bill was sponsored by Senator Jack Loudon, who was raised a Christian Scientist, but is now a Baptist.

Christian Science church lobbyist Riley Seay testified for the bill. He claimed to receive hundreds of calls a year from non-Christian Scientists who want to know how to get an exemption from vaccinations. He also claimed women are pressured to have their newborns immunized in the hospital.

Other proponents testified that too many vaccines are required today, that vaccines for trivial illnesses should not be required, and that vaccines can have harmful side effects.

Laura Riggin of St. Louis testified against the bill as CHILD's representative. She stated CHILD's position that both religious and philosophical exemptions from immunizations are wrong. She pointed out that the Principia schools for Christian Scientists in St. Louis and Elsah, Illinois, have had at least four large outbreaks of measles since 1985, including three deaths of young people.

In 1994, she continued, an unvaccinated Christian Science child at Principia was the index patient for a measles outbreak that spread to 247 children, including many in the St. Louis public schools. It remains the nation's largest measles outbreak since 1992 and cost St. Louis County more than $100,000 to contain. In 1989, the Amish had 241 measles cases in three Missouri counties.

The bill passed the Senate Aging, Families, Mental, and Public Health Committee on a straight party-line vote with all Republicans voting for it.

The House bill was assigned to the Health Care Policy Committee, which has five physicians on it. The committee voted against the bill. Neither bill was taken up on the floor of its chambers.

Oversight bills fail

Bills were introduced to protect children in Missouri's unlicensed religious boarding schools and reformatories, but went nowhere. Rep. Barbara Fraser, D-St. Louis, introduced a bill to require state licensure; her bill was not even heard in committee. Sen. Patrick Dougherty, D-St. Louis, introduced a bill requiring that the boarding schools be

accredited either by a nationally recognized organization or by an organization incorporated in Missouri with rules and bylaws adhered to by other facilities. It also required the schools to meet state health and safety standards. A committee heard the bill at the end of the session, but did not vote on it.

Dougherty's bill was supported by the Catholic Conference, Presbyterian Children's Services, Governor Bob Holden, Citizens for Missouri's Children, Missouri Juvenile Justice Association, and Chief Juvenile Officer Mike Waddle.

Abuse allegations can be investigated now

Opponents included Heartland Christian Academy; Shiloh Christian Children's Ranch; Families for Change; Whose Children Are They?; Missouri Family Network; John Stormer, a Florissant Baptist Church pastor; and a former student of an unlicensed religious boarding school.

Those testifying against the bill argued that the state did not need any more authority to protect the children in religious boarding schools because current law allows the state to investigate allegations of abuse and neglect of individual children.

If a pastor accepted state licensure, Rev. Stormer argued, "he would be acknowledging that the state is over the Lord's church" and "this no Bible-believer can do." Such a concession would lead to the state licensing all church ministries, including the pulpit, he charged.

Opponents also pointed out that children have been abused and neglected in state-licensed facilities.

No regulation in residential facilities for troubled youth

Ruth Ehresman, policy director of Citizens for Missouri's Children, pointed out that many professions are licensed, cars must be inspected by state-approved mechanics, animal care facilities must meet state health and safety rules, and yet Missouri allows "facilities that house troubled youth 24 hours a day, 365 days a year, to exist without any type of regulation."

Ehresman also testified out that "individuals who abuse children can, and do, put themselves in positions to have access to children," both in religious and secular institutions, yet Missouri requires no criminal background checks on employees at the unlicensed boarding schools.

Ruth Ehresman

Licensure is intended to prevent harms from occurring. The state is unlikely to learn about abuse without any proactive authority.

No regulation in day cares affiliated with schools

After an arduous legislative struggle, Missouri did enact a law in 1993 requiring unlicensed church-run day-care centers to meet health and safety standards and conduct background checks. The law does not, however, apply to day cares affiliated with schools. More than 600 Missouri day cares are run by parochial school systems.

At day cares purportedly affiliated with Kid's World Christian Academy in St. Louis, bathrooms had no running water, neither center had clean diapers, cans of paint and a can of gasoline were within reach of children, food was unwholesome, and the janitor was a registered sex offender, the *St. Louis Post-Dispatch* reported. In those cases, the state found that they were not actually affiliated with any school and was able to close them early this year.

Senator Patrick Dougherty, D-St. Louis, then introduced a bill to require school-run day cares receiving state funds to meet state health, safety, and staffing requirements and to conduct criminal background checks. The bill was added as an amendment to a much larger bill that was vetoed.

A week before the session ended, the Missouri Senate added an amendment to a foster care reform bill, which could lead to even more abuses in the unlicensed church-run boarding schools. It allowed these schools to use any amount or type of corporal punishment that school officials considered reason-

able and required the state to give them the names of anyone reporting abuse or neglect of students.

"A mockery of reform"

In state-licensed boarding schools and day cares corporal punishment is prohibited. Parents are allowed to use "reasonable" corporal punishment, but reasonableness is a fact question for a jury to determine. To allow the staff in the isolated, unregulated boarding schools to decide for themselves what beatings of children were reasonable was a shocking new low for Missouri.

CHILD and its members wrote letters in opposition. The National Coalition to Abolish Corporal Punishment in Schools wrote to the press, "Have the terrible tornados that struck Missouri last week blown the common sense out of the brains of the Missouri Senate?" and "Should we let battering husbands decide what amounts to 'reasonable' chastisement of wives?" The *Post-Dispatch* declared the bill "a mockery of reform" and "an impostor."

Two days later a conference committee stripped the amendment from the bill, and soon legislators went home for the year.

Other problems slip through

The 200-page bill had other serious flaws, however, and at least one, a source said, was also the work of Charles Sharpe, who runs Heartland Christian Academy and contributes heavily to Republican candidates.

The bill raised the standard of proof for the Division of Family Services (DFS) to deny funds to those who provide childcare in their homes. Current law prohibits state compensation from such providers if the DFS has "probable cause" to find they have abused or neglected children. The bill raised the standard to "preponderance of the evidence."

Also, the bill prohibited DFS from subpoenaing the victim or abuse reporter in court reviews of agency determinations of child abuse and neglect. We've been told that was Sharpe's doing.

The bill also prohibited a juvenile officer from communicating his information in abuse, neglect, truancy, and delinquency cases to school and law enforcement officials. Given Sharpe's long-running battle with Chief Juvenile Officer Michael Waddle, this provision seems like another concession to Sharpe.

Bill vetoed despite urgent need for some features

In July, Governor Holden vetoed the bill, citing the problems above among others. Some of his fellow Democrats were surprised because the legislature had worked long and hard for the bill, and it included many important reforms, particularly opening family court hearings and making it easier for parents to obtain mental health services for their children. Hundreds of Missouri families have relinquished custody of their mentally ill children to the state simply because they cannot afford to pay for the treatment the children need.

Some Republicans were more than surprised. House Speaker Catherine Hanaway, R-Warren, angrily vowed to gather the votes to override the governor's veto in a special session this September.

A few blessings

We were left counting a few blessings: exemptions from immunizations were not expanded, the wretched status quo in the unlicensed boarding schools did not get worse, and the religious freedom restoration act was amended so as not to impact on child protection.

Some rest would have been nice too, but it sounds as if the foster care reform bill and Charles Sharpe's forces will be back in Jefferson City this fall.

Sources include *The St. Louis Post-Dispatch:* November 17-19, 2002; March 11, May 5, June 11, July 16, July 18, and July 21, 2003.

The testimony of CHILD president Rita Swan before the Missouri House Judiciary Committee follows in condensed form.

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Testimony before the Missouri House Judiciary Committee In opposition to SB12

I am Rita Swan of Sioux City, Iowa, representing Children's Healthcare Is a Legal Duty (CHILD), a national membership organization working for the health and safety of children. We have Missouri members.

We oppose SB12 because it compromises the welfare of children. We note that SB12 exempts civil rights cases from its scope. Churches and landlords will not be able to use it as a basis for discriminating against ethnic minorities or homosexuals. We ask for equal consideration for children. We recommend that the bill be amended so that it does not apply to state efforts to protect and provide support for children or to tort liability involving injuries to children. Pennsylvania did that with its RFRA bill, SB1421, which was enacted last year.

CHILD and the American Professional Society on the Abuse of Children filed an amicus curiae brief in Boerne v. Flores, 117 S. Ct. 2157 (1997), which argued that the federal Religious Freedom Restoration Act (RFRA) compromises due process and equal protection rights of children.

While *Boerne* was mainly decided on federalism principles, child protection was also a factor in the ruling. Justice Sandra O'Connor said in *Boerne*, "Requiring a state to demonstrate a compelling interest and show that it has adopted the least restrictive means of achieving that interest is the most demanding test known to constitutional law. . . . This is a considerable congressional intrusion into the States' traditional prerogatives and general authority to regulate for the health and welfare of their citizens."

When the Religious Liberty Protection Act was introduced in Congress as a successor to RFRA, the National Child Abuse Coalition in Washington D.C., of which CHILD is a member, raised vigorous objection to its potential for weakening protection of children, and Congress ultimately narrowed the bill, S.2869, to deal only with land use and prisoners' issues.

SB12 creates a new cause of action. Parents will be able to sue school districts, state agencies, et al., raising claims of improper state interference with their religious practices and the burden will be on the state to prove compelling interest and least restrictive means. When the federal RFRA was in force, for example, the Ninth Circuit, U.S. Court of Appeals, used it as a basis for ruling that the school district must allow Sikh children to wear belts containing ceremonial knives in school. Cheema v. Thompson, 67 F.3d 883 (9th Cir. 1995).

In promoting litigation, SB12 will take scarce resources away from Missouri and could intimidate state agencies from taking actions that might lead to lawsuits.

As we argued in our amicus in *Boerne,* a state's interest in child protection should not require the strict scrutiny imposed by RFRA. Missouri has enacted a comprehensive scheme to deal with the problems of child endangerment, abuse, neglect, and non-support, including criminal penalties, civil tort liability, mandatory reporting, and social service intervention. The state should not be confined to a single "least restrictive remedy" to protect children.

RFRA calls into question all criminal child abuse laws. Churches with religious beliefs against medical care, for example, have argued that parents who withhold lifesaving medical care from children on religious grounds should be immune from criminal charges because criminal prosecution is not the least restrictive means to achieve the state's compelling interest in the welfare of children. Those churches also claimed before Congress that prayer is "excellent health care" and that, under RFRA, the government had the burden of proving that medical care was better than prayer.

They also argued that the federal RFRA obligated states to enact religious exemptions to all preventive and diagnostic measures, such as immunizations, metabolic testing, hearing tests, and prophylactic eyedrops, and that the state had a compelling interest in requiring health care over parents' religious objections only when the child was seriously ill.

RFRA and RFRA-like provisions in state law have hindered state efforts to collect child support. In Hunt v. Hunt, 648 A.2d 843 (Vt. 1994), the Vermont Supreme Court held that where the non-supporting father was a member of a church that prohibited support of children who lived outside of the closed religious community, the contempt citation must be dismissed because RFRA required that the state confine its means for collecting support to the lowest restriction on religious practice.

In 1998 a Minnesota Appeals Court reversed a child support award because the Minnesota Constitution has been interpreted to include a provision like RFRA. The Court held that the father could not have income imputed to him for purposes of calculating a child support award, as in all other cases of voluntary underemployment, because he belonged to a church that required its members to live in a commune and work full-time for it. Murphy v. Murphy, 574 N.W.2d 77 (Minn. App. 1998).

In both *Hunt* and *Murphy*, the courts ruled that the state had a compelling interest in collecting child support, but prohibited certain means of obtaining it.

We suspect that some church leaders running Missouri's unlicensed boarding schools and day care facilities will claim that SB12 prevents the state from regulating them. They will say, as they told the legislature last year, that the state should have no right to interfere with the corporal punishment advocated by their religious doctrine until the child is seriously injured and then the state can use existing child abuse laws to protect the child.

SB12 applies to cases between private parties as well as cases involving government action. It subjugates the interests of all persons, not just those of government, to religious

interests. Indeed, in litigation between private parties, it will often be difficult for the government to demonstrate that it has a compelling public interest in a certain outcome.

In Lundman v. McKown, 530 N.W.2d 807 (Minn.App. 1995), review den., cert. den. 116 S.Ct. 814, a wrongful death tort action was brought against a Christian Scientist and her hired faith healers for withholding medical care and allowing her child to die of untreated diabetes. The Minnesota Court of Appeals applied "a standard of care taking account of 'good-faith Christian Scientist' beliefs rather than an unqualified 'reasonable person standard'" because "the religious belief would be burdened by the [tort standard]." Id., at 827-28 and 818. The RFRA-like provision in the Minnesota Constitution prevented application of a reasonable person standard.

We fear that SB12 will pose barriers for plaintiffs seeking damages from church officials for child sexual abuse. While the federal RFRA was in force, a Colorado Appeals Court used it as a basis for ruling in a child's suit against a church counselor and church for alleged inappropriate contact. The Court ruled that, if the evidence was essentially the same on retrial, the jury should be instructed to rule for the defendants if it determined the counselor's conduct was based on sincere religious beliefs. A concurring judge noted that RFRA "modifie[d] state tort law," and that "allowing a tort remedy without, at a minimum, a jury instruction allowing deference to religious belief, would substantially burden the counselor and church's free exercise" and that "without such an instruction, there is no compelling state interest here to allow plaintiffs to pursue a tort remedy." DeBose v. Bear Valley Church of Christ, 890 P.2d 214 (Colo. 1995) (as modified on denial of rehearing).

Under SB12 juries will be required to consider the religious beliefs of plaintiffs and defendants to determine liability in disputes between private parties. While SB12 provides that the state may limit a religious practice to protect a compelling state interest, it may be difficult or impossible to show that the state has a compelling interest in the outcome of disputes between private parties, thereby eliminating the child's right to recover damages when he or she has been injured as a result of religious practices or when church officials raise religious doctrine as a defense.

Proponents deny that SB12 would have any impact on private litigation, citing the language in the bill that "a <u>governmental authority</u> may not restrict a person's free exercise of religion. . . ." However, we believe that SB12 would affect private litigation because of the U.S. Supreme Court's ruling in New York Times v. Sullivan, 376 U.S. 255 (1964), in which the Court held that the rules of law applied in civil actions between private parties are government action. The judge in a civil action is a government entity and his application of law is state action. Therefore, in our view, SB12 requires strict scrutiny to be applied in all court actions where a party alleges a burden on the exercise of religion.

Again, we urge that SB12 be amended so that it does not apply to state efforts to protect and provide support for children or to tort liability involving injuries to children. We are also distributing Governor Pete Wilson's message when he vetoed the RFRA bill passed by the California legislature.

Queens couple guilty of assault in vegan case

In April, Queens Village, New York, parents who kept their baby daughter on a strict vegan diet were convicted of nearly starving her to death.

A jury in State Supreme Court found Sylva and Joseph Swinton guilty of first-degree assault, reckless endangerment, and endangering the welfare of a child.

No medical care

Mrs. Swinton gave birth to the girl, IIce (pronounced "ice"), at home three months prematurely without attention from licensed health care providers.

Swinton testified that she distrusted doctors and medicine because they had not helped her in the past. She said she had been a "wayward" adolescent who weighed 300 pounds and had a thyroid condition. She lost 177 pounds after replacing medication with herbs and adopting a vegan diet.

As their baby's birth neared, the Swintons bought a home maternity kit containing sterile clothes and directions. The Swintons said they also prepared by reading books, such as *Be Your Own Pediatrician* (which cannot be located on book search services), and watching episodes of the cable television shows *Maternity Ward* and *A Baby Story*.

Baby given only formula invented by mom

Swinton did not breastfeed the baby. She testified that she tried feeding her commercial soy formula for four months, but IIce became "mucousy," so Swinton began making her own formula from ground nuts, fresh-squeezed fruit juices, herbal tea, beans, cod liver oil, flaxseed oil, coconut milk, and sixteen herbs, including echinacea, slippery elm, and dandelion.

Severe malnutrition

The results were disastrous. When authorities discovered the baby, she weighed only ten pounds at sixteen months old. She had poor muscle tone, a distended abdomen, fractured bones, rickets, internal injuries, and a lung disorder—all caused by malnutrition. She had no teeth, was too weak to cry, and could not even roll over. She had not been seen by a doctor.

Swinton denied that a photo taken shortly after IIce arrived at a hospital represented her child and claimed that a brain scan ordered by doctors caused injuries to the child.

Was parents' conduct depraved?

The charges required the prosecution to prove that the parents' conduct was reckless and depraved. The defense argued that the toddler did not have serious physical injuries, that the hospital caused injuries, that their conduct was not reckless because they had no appreciation of the risks, and that even if it were reckless, it was not depraved.

Queens County prosecutor Eric Rosenbaum argued that letting a baby deteriorate to that extent over a 16-month period was depraved. Also, Swinton's claim to be ignorant of the risks was undercut by her claim to have done a lot of reading on nutrition and by the testimony of family members who said they had advised the parents against the diet.

Parents' motives suggested

Rosenbaum did not have to prove motive, but he suggested motives to the jury. After several failures in other areas of their life, the Swintons were determined to succeed with the diet, and having total control over a baby too weak even to cry gave them a feeling of success, he suggested. The narcissistic parents were willfully blind to the harm, he contended.

Their lawyers promised an appeal and said the Swintons believed everything they did for the child was in her best interest and therefore could not have been depraved conduct.

Doctors report that the girl's health has improved greatly, but they still fear she will have neurological damage.

While awaiting trial, Sylva Swinton gave birth to a son whom she and Joseph named InI.

Crime not intentional

Both children are now in foster care. The parents' convictions are not grounds for terminating their parental rights, Rosenbaum said, because they were not convicted of "an intentional crime."

The press originally reported that the parents would raise a religious defense to the criminal charges. Later, the defense offered a psychiatric defense in pretrial motions. Rosenbaum showed how he would counter that, and neither defense was offered at trial.

Sources include Court TV, March 29, 2003; *The New York Times*, April 5, 2003

Faith in new world order through "natural hygiene" leads to tragedy

In 2000 a girl died in England because of her parents' stubborn determination to limit her to a vegan diet of raw foods only, despite warnings from doctors, nutritionists, and social workers. Areni Manuelyan, ten months old, was severely underweight when she died of dehydration and pneumonia.

Her parents converted to the diet after reading the book *Raw Eating, The Meaning of Nutrition – A New World Order*. They became obsessed with "Natural Hygiene," a lifestyle regime that shuns all drugs in the belief that the body will heal itself and thrive on a diet restricted to raw fruits, nuts, and vegetables. Proponents claim drugs and all chemicals in the environment are toxins, which must be removed from the body by the raw foods diet.

The parents pled guilty to child cruelty and were placed on probation.

Taken from *The London Times*, September 15, 2001, and Dr. Stephen Byrnes' newsletter for October 1, 2001, at **www.PowerHealth.net**.

Three sentenced for child's death in anti-medical commune

In March and April a former social worker and two of the five women living with him in Marinwood, California, were sentenced to prison terms ranging from seven to sixteen years for child endangerment and neglect.

Winnfred Wright's son, Ndigo Campisi-Nyah-Wright, died in November, 2001, of starvation at 19 months old. Twelve other children in the home, all fathered by Wright, were also found to be abused and neglected.

An African-American, Wright persuaded white women to live with him by telling them they had "white karma" for what whites have done to blacks and could cleanse themselves by taking care of him financially and sexually.

Leader claims healing system, opposes medicine

Wright's religious teachings mixed New Age, Rastafarianism, and apocalyptic Christianity. He held the group to a vegetarian diet and professed to be able to heal disease with his extensive knowledge of nutrition. He opposed medical care. While he claimed a belief system "in harmony with the universe," he isolated his "family" from outsiders.

Paintings in the home depicted Wright as a Christ figure. He ordered the women to read from the Book of Revelation while they smoked something that made them pass out. He ordered them to do target practice with squirt guns to prepare for the "Fall of Babylon."

He also kept loaded handguns, assault rifles, a sword, and martial arts weapons around the home and beat the women severely.

Barbaric punishments prescribed in rulebook

The children in the home suffered horrific abuses for years. A "Book of Rules" written by Wright and the women prescribed punishments for the children including whippings, fasts, forcing them to eat jalapeno peppers, tying them up for hours, and taping their mouths shut.

"Whoever is making noise gets tape immediately," the rules stated.

A rule titled "Route to Ascension" said one girl had to wear tape "at all times." If she was ever found without her mouth taped, the book said, she was to be whipped with a belt. Another rule said, "Each and every night [the girl] will be tied to a playpen."

No toys, no talking, no outside contact

The children were kept inside the group's home and had almost no contact with the outside world. Sheets covered their windows. Whenever anyone left the house, a van with tinted windows was backed into the garage so neighbors could not see who was getting in. They played in complete silence and had almost no toys.

Deformed, retarded, and tortured

At the sentencing hearing Marin County Deputy District Attorney Barry Borden played a videotape made of the children after Children and Family Services (CFS) took them into protective custody. The children crawled or hobbled. They all had deformities caused by rickets and malnutrition, including severely bowed and crooked legs. Most were mentally retarded from years of extreme isolation and psychological torture.

Most shocking was a two-year-old boy who could not walk or talk, cried incessantly from pain, and put his head on the floor and pushed his head around like a wheelbarrow.

Borden said the children would suffer physical and emotional problems for the rest of their lives.

Ndigo's condition was even worse with several broken bones, malformed legs, concave chest, and a hump on his back. His bones had so little calcium they were hard to see on x-ray. He was the size of a three- to five-month-old infant when he died at age nineteen months.

Cancer frustrated their belief system

At sentencing Wright said his family were vegetarians who rejected modern medicine and had just acquired "a temporary blind spot" because one woman in the home became ill with leukemia.

"We had love in our hearts," he said. "It seems unfair [that we should be] demonized for our mistake." He also claimed the boy's death was "the will of God."

Claims of brainwashing disputed

Unlike Wright, Mary Campbell and Deirdre Wilson expressed great remorse for their role in the abuse of the children. They also claimed Wright controlled them in a brainwashing cult.

Wilson called herself "a psychological amputee," who had been "terrorized" into hating her parents and distrusting the outside world.

Borden scoffed at their claims, pointing out that both women wrote some of the rules themselves. Wilson was college-educated, yet did nothing to help her severely traumatized, retarded, and starving son, he said.

"Like Flip Wilson's sketch about Geraldine, she says, 'The devil made me do it,'" Borden said. "Mr. Wright was a bad man, but he was not the devil and he didn't have supernatural powers."

"If Winnfred Wright isn't the devil, then I'd like to know who is," Wilson's attorney countered. "Evil pulsated from his veins. Everybody in this house was controlled, dominated, subjugated, and tortured by Winnfred Wright."

Judge Boren said he could not absolve Wilson of responsibility, but did sentence her to less than the maximum time.

Why didn't state intervene before boy died?

It is distressing that the state did not intervene before so many children were injured. A decade earlier a woman left the group and complained about the beatings. The police saw cuts and bruises on all the women's faces when they came to the home, but none of the women wanted to press charges. CFS received some reports of child neglect when the group lived in San Francisco County. CFS investigated, but took no action. About two years before Ndigo's death the group moved to Marin County.

Taken from *The San Francisco Chronicle* January 18, March 15, and April 5 and 19. See also the CHILD newsletter #1, 2002.

Florida charges Black Hebrew Israelites in baby's death

Parents who claim their religion required a strict vegan diet of raw foods only have been charged with neglect and aggravated manslaughter in the death of their five-month-old daughter.

Joseph and Lamoy Andressohn of Homestead, Florida, were arrested June 6 for the severe malnutrition that caused their daughter Woyah's death in May. The police say she was fed only wheat grass juice, avocado juice, coconut water, and almond milk. At her death she weighed just under seven pounds, one pound less than she weighed at birth.

Enemas: punishment for eating cooked food

Her brother said their parents had recently given Woyah an enema because she was "toxic." They also gave the other children enemas as punishment for eating cooked food.

All five of their children were born at home. None had been immunized.

Religion opposes medical care and eating animal products

The parents stated in a court hearing May 16 that they are Hebrew Israelites and that a vegan diet, avoidance of doctors, and home schooling are practices of their religion.

The Florida Department of Children and Families (DCF) received three reports that the five Andressohn children were neglected. In early March a caller reported that the children looked "very hungry" and were being given only coconut water, carrots, corn, and guacamole for food and drink.

DCF worker lets baby stay on grass juice diet

Six days later a DCF investigator visited their home and asked what the baby was being fed. Lamoy held up a bottle of wheat grass juice.

Nevertheless, the DCF closed the case with a determination that there were "no indications of neglect."

In May, the police called the DCF and reported that the children were not receiving "adequate food." They are "very thin, and their stomachs look bloated," the report said.

The next day a DCF investigator came to the home and saw the four older children, but Woyah was away with her father. The investigator told the mother to take her children to a doctor.

Two days later Woyah stopped breathing. Her parents called 911, but she was pronounced dead at Homestead Hospital early on May 14.

3 other county kids died this year under DCF supervision

Three other Miami-Dade County children have died since February while under DCF supervision. Last year the county lost track of 5-year-old foster child Rilya Wilson for more than a year before reporting her as missing. She has still not been found.

The DCF investigator on the Andressohn case and her supervisor were later fired.

Woyah's four siblings were taken into custody by the DCF after her death and remain in foster care. A doctor whose team examined them testified that they were dangerously malnourished and had signs of developing rickets.

Rickets, which is caused by Vitamin D deficiency, is almost never seen in Florida because sunlight promotes the formation of Vitamin D.

Children need diets with more fat and protein

A raw-foods lecturer said Joe Andressohn weighed 250 pounds and had "a lot of complications" before adopting a vegan raw-foods diet.

Experts, however, say that young children need a greater percentage of fat and protein in their diets than adults and that infants should be breast-fed or given infant formula for the first year. It requires extreme care to meet the nutritional requirements of infants and young children with a vegan diet.

Dad sometimes ate cooked meat and vegetables

According to the medical examiner's report, Joseph Andressohn broke the religious rules he imposed on his children. He sometimes ate steak and cooked potatoes. He also smoked.

Other beliefs of Black Hebrew Israelites

An article posted on the Apologetics Index at **www.gospelcom.net** states that the Black Hebrew Israelites believe the descendents of American slaves and indigenous peoples of America make up the twelve tribes of Israel and God's true chosen people. They hope to eventually return to Israel, which they call "Northeast Africa."

The first sect of Black Hebrew Israelites was founded in 1896. It permitted polygamy, forbade birth control, and decreed strict dietary laws.

Sources include *The Miami Herald*, May 17 and 20; June 7, 19, and 29; and July 23, and **www.gospelcom.net**.

Religious exemptions abound in Florida's health and safety laws for children

The religious exemption law which Joseph and Lamoy Andressohn (see previous article) are trying to use in their defense was the basis of a Florida Supreme Court ruling overturning convictions of Christian Science parents who let their daughter die of untreated diabetes. Hermanson v. State, 604 So.2d 775 (Fla. 1991).

Court says legislature should fix religious exemption problem

The law states, "A parent or legal custodian who, by reason of the legitimate practice of religious beliefs, does not provide specified medical treatment for a child, may not be considered abusive or neglectful for that reason alone. . . ." Fla. Stat. § 39.01(30)(f). It also provides that courts may order either medical treatment or "treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious denomination" for any child in the state.

In *Hermanson*, the Court held that abuse and neglect exemptions caused confusion as to whether religious objectors had a duty to obtain medical care for their children. "The statutes have created a trap that the legislature should address," the Court stated.

Later, a Florida appeals court overturned the conviction of Endtime Ministries parents who had withheld lifesaving medical care from their handicapped daughter. Hernandez v. State, 645 So. 2d 1112 (Fla. 1994).

Since then, three Florida legislators have promised to sponsor a bill to repeal the abuse exemption, but abandoned their support after Christian Science lobbyists met with them.

Mom begs for licensure of day cares

In 2001, 2-year-old Zaniyah Hinson died in Daytona Beach after staff at a church-run day care left her in a closed van. The facility was exempt from state licensure because it was run by a church.

Zaniyah's mother gave heartbreaking testimony to the legislature asking for repeal of Fla. Stat. § 402.316, the religious exemption from licensure. A family friend gathered thousands of signatures on petitions and posted a website in memory of Zaniyah. The media gave extensive coverage to their lobbying efforts and to day-care problems.

Again, however, the Florida legislature has done nothing. CHILD's Florida coordinator has written several letters to state legislators on the daycare issue, but received no answer.

More religious exemptions in Florida

Other religious exemptions in Florida law include:

Fla. Stat. § 409.176(5)(a), a religious exemption from licensure of residential child caring facilities
Fla. Stat. § 984.03(73), a second religious exemption from child abuse and neglect charges
Fla. Stat. § 383.14(4), religious exemption from metabolic testing
Fla. Stat. § 383.04, religious exemption from prophylactic eyedrops
Fla. Stat. § 383.145(3)c, an exemption from newborn hearing screening for any reason
Fla. Stat. § 232.0315(1), religious exemption from school-entry health exams
Fla. Stat. § 232.032(3)a, religious exemption from immunizations of school children
Fla. Stat. § 402.305(9)c, an exemption for children enrolled in day care from medical or surgical examination or medical or surgical treatment if parents object for any reason. (Administrative regulations at 65-c22.006(2)(c) provide religious exemption from immunizations of children in day care.)

Fla. Stat. § 39.810 (2) also appears to provide a religious exemption from a parent's duty to provide medical care. The law obligates the court, in weighing a petition for termination of parental rights, to consider "the ability and disposition of the parent or parents to provide the child with food, clothing,

medical care *or other remedial care recognized and permitted under state law instead of medical care*, and other material needs of the child." (emphasis added)

Prosecutor required to prove intent to harm

Florida children whose parents have religious objections to medical care have little protection under law. Two appellate courts have overturned convictions for fatal medical neglect when the parents had religious objections. In another case of a toddler who died after being stung 432 times by wasps, a Florida trial judge instructed the jury that "negligent omissions" are not "culpable negligence" because "they are committed without the requisite specific intent to cause great bodily harm, permanent disability, or permanent disfigurement." The parents belonged to a sect opposed to doctors and waited for 7 ½ hours after the boy had probably died to call 911. They were acquitted. See the CHILD newsletter #4, 2000.

If Florida prosecutors have to prove "specific intent to cause great bodily harm" in neglect cases, then Florida children have no meaningful protection against neglect.

Vegan diets: cultic or healthy?

The typical American diet is unhealthy. Obesity of American adults and children is dangerously high and ranks with smoking as a cause of disease and death. A vegetarian diet can be much healthier than the typical American diet, and whole cultures have thrived on vegetarian diets for centuries.

Blind to babies' deterioration

When vegetarianism is mixed with ideology, however, it may in some cases become a mindset that is blind to bad consequences. The vegan diets that led to the deaths and neurological damage of children described in this newsletter were tied to religious and non-religious belief systems. Several proponents claimed to be bringing a new world order, harmony in the universe, and spiritual enlightenment with their diets. Some claimed to be in possession of secret knowledge. Some rejected medical care on the rationale that all drugs are toxic.

An overarching belief system can provide the discipline that helps people stay on a healthy diet, but can also prevent them from seeing that a dietary regime is causing harm to the child.

Several of these parents believed vegan diets improved their own health dramatically, but ignored the fact that infants have very different dietary needs than adults.

Hypocrisy

Mr. Andressohn's shortcomings went beyond myopia and included hypocrisy if the medical examiner is correct. Though he demanded that his children eat only a vegan, raw foods diet, he himself sometimes had steak and cooked potatoes, the medical examiner said.

Sacred power attributed to foods

Vegetarianism has long had moral and spiritual arguments to support it. The Greek philosopher Pythagoris, who lived in the 6th century B.C., argued that eating animal flesh contaminated and brutalized the soul. A 17th century vegetarian Thomas Tyron held that his diet opened "the windows of the inward senses of the soul."

Religion has influenced food choice throughout history. Some champions of "natural foods," such as Presbyterian minister Sylvester Graham, based their advice on what Adam and Eve ate in the Garden of Eden: "fruits, nuts, farinaceous seeds, and roots" with honey and "perhaps some milk." The inventor of the Graham cracker, Graham was a tireless crusader against refined flour and alcoholic beverages.

Sacred power has been attributed to many foods. The first name given to cornflakes was "Elijah's Manna" by C. W. Post.

Sources include James Harvey Young, "Historical aspects of food cultism and nutrition quackery" in *Food Cultism and Nutrition Quackery* ed. Gunnar Blix (1970); Gerald Carson, *Cornflake Crusade* (1957); Victor Herbert, *Nutrition Cultism* (1980); and **www.whfoods.com**.

Iowa girl wins with paper on religious objections to medical care

Kathryn Skilton

In May Kathryn Skilton, a student at Nashua-Plainfield Middle School in Nashua, Iowa, won the Iowa History Day competition in the junior division historical papers category for her paper on "Medical Care for Children: Limits on the Free Exercise of Religion by Parents."

Skilton wrote about the U.S. Supreme Court's ruling in *Prince v. Massachusetts*, 321 U.S. 158 (1944), that parents do not have a constitutional right to a religious practice that harms children, and about legislative and judicial developments since then.

In June Skilton competed with her paper in the National History Day competition held at the University of Maryland.

Douglas awarded fellowship for research on religious exemptions

CHILD has awarded the Imogene T. Johnson research fellowship to Dr. Emily Douglas of Saco, Maine. She will be researching Christian Science lobbying for religious exemptions in New England. Douglas holds a Ph.D. in public policy from the University of Massachusetts.

She currently works as a post-doctoral research fellow at the University of New Hampshire's Family Research Laboratory and teaches in the UNH Sociology Department. Her research interests include system responses to child maltreatment, laws on child abuse fatalities, international dating violence, and family policy.

About CHILD Inc.

CHILD is a national membership organization working to stop child abuse and neglect related to religious doctrine or cultural traditions.

CHILD has a special interest in public policy. We oppose all religious exemptions from child health and safety laws. We believe that children have a Fourteenth Amendment right to equal protection of the laws.

CHILD is governed by its board of directors. The board chairman is Dr. Bill Cooley, a regulatory affairs consultant for the drug industry, of Wyoming, Ohio. The other members of the board are Carole Jenny, Sharon Lutz, Laura Rosenbury, and Mark Berson. Jenny, a pediatrics professor, directs the Division of Child Maltreatment at Brown University Medical School in Providence, Rhode Island. Lutz is a retired attorney and nurse in Miami, Florida. Rosenbury is an associate professor of law at Washington University Law School in St. Louis, Missouri. Berson is president of the Levy, Winer, Berson law firm in Greenfield, Mass.

For more information about CHILD's work and a membership application form, please visit our webpage at **www.childrenshealthcare.org.** To reach CHILD by mail, phone, fax, or e-mail, see the contact information on page 1.