

# Children's Healthcare Is a Legal Duty, Inc.

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*Equal rights for children under the law*



*Oregon Statehouse*

## Victory in Oregon

On June 9 Oregon Governor John Kitzhaber signed into law an emergency bill removing Oregon's religious exemptions pertaining to medical care of sick and injured children and taking effect immediately.

It was a most precious highlight for CHILD, and we firmly believe it will save the lives of children.

By 1997 Oregon had the worst laws in the nation for children in faith-healing sects. It had religious defenses to homicide by abuse or neglect, first and second-degree manslaughter, first and second-degree criminal mistreatment, and criminal nonsupport plus two religious exemptions to neglect in the civil code.

Oregon also had a great many preventable deaths of children in the Followers of Christ church in Oregon City because of the church's religious objections to medical care. Between July, 1997, and February, 1998, three Followers' children died without medical care of readily treatable conditions:

sepsis from a strangulated hernia, kidney infection, and diabetes.

In 1998 Bruce Starr, a conservative Christian, was running for his first term in the Oregon House. Campaigning in his district, he knocked on the door of CHILD member Boulden Griffith, who described the medical neglect he had experienced growing up in a Christian Science home and asked Starr to sponsor a bill to repeal Oregon's religious exemptions. Starr agreed to do so and won the election.

In January, 1999, Starr, R-Hillsboro, introduced a bill repealing all nine religious exemptions from providing medical care for sick children. The Christian Science church fought the bill relentlessly. During the seven-month struggle legislators proposed about 75 amendments; many were attempts to mollify the church, whose lobbyist went from office to office claiming to oppose only some provisions, but raising other objections down the hall.

The bill that Governor Kitzhaber finally signed into law in 1999 repealed five of the nine religious exemptions targeted in Starr's original bill. I made four trips to Oregon to work for the bill.

We hoped that the compromise bill would be enough to persuade the Followers to change their behavior and for many years it seemed that it had. Prosecutors explained the new laws to them. They lost no more children to medical neglect until 2003. Again the prosecutors met with the Followers and warned them of their liability. No more Followers children died of medical neglect for the next five

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years. But in 2008 and 2009 three Followers children died without medical care, and in 2010 a fourth was permanently harmed by medical neglect.

Susan Nielsen had two columns in *The Oregonian* decrying Oregon's remaining religious exemptions. With Oregon's leading newspaper speaking out so forcefully and with the recent deaths, we began to think that the legislature might be willing to repeal the exemptions.

### **Starr agrees to carry another repeal bill**



We asked Bruce Starr, now a state senator (left), if he would be willing to sponsor another bill repealing them, and he agreed to do so. It meant a lot to us that he was willing to take on again what was such an exasperating, protracted fight in 1999.

My husband Doug and I wanted to make it easier for him. We felt if we could be in Salem for a few months, if we could be at the State Capitol every day to present the case for equal protection of children, we could stop the Christian Scientists' obfuscations from gaining traction with legislators.

### **Finding a place to live**

The CHILD board agreed this project was worthy of financial support, and we began calling to find a place to live there. We needed a furnished short-term rental where we could have with us our Labrador retriever—a dog who weighed far more than the 25-pound maximum prescribed by the few apartment complexes that allowed any pets.

All our calls were fruitless, but Salem pediatrician Dr. Jim Lace, a CHILD honorary member, circulated our needs at his clinic. The nursing manager, Debi Hartman, became interested in our legislative proposal. She and her husband Michael wanted to help CHILD save children. They offered to rent us a lovely home at \$500 a month less than their mortgage payment on it.

### **Off to Oregon**

We accepted. There was no turning back. We were committed to a strange new venture. We found a college student to live in our home, bought

studded snow tires for crossing the Rockies, boxed up 250 pounds of stuff to ship by truck, and loaded the rest of our necessities in the car, leaving our dog Boomer just enough room to lie down on the back seat. We left Iowa on December 22, celebrated Christmas with our daughter and grandson in Colorado, and reached our Salem home on New Year's Eve.

### **How much will legislature deal with?**

In the mountains of eastern Oregon we were stopped by the first blizzard of our journey. My heart sank in the desolate landscape. I wondered about the legislators who represented this country and how we would persuade them to care about the children in faith-healing sects. Would they be willing to sort through the claims for parents' rights, religious freedom rights, and "alternative medicine," and take a stand for a small group of children? Or would they not have time for a controversial issue when they had to deal with Oregon's projected \$3.5 billion deficit?

Some commentators had predicted that the Oregon legislature would not be able to get much of anything done because the House was evenly split between 30 Democrats and 30 Republicans. The Senate had 16 Democrats and 14 Republicans.

### **Democrat sponsors bill in House**



On her own initiative Representative Carolyn Tomei, D-Milwaukie (left), met with Clackamas County prosecutors and asked if they wanted statutory changes to deal with the injuries to the Followers' children in her district.

Tomei, a prosecutor, and a drafter prepared a bill repealing the religious defense to homicide by abuse or neglect, first-degree manslaughter, first- and second-degree criminal mistreatment, failure to provide physical care, and a provision enacted in the 1999 compromise allowing discretionary sentencing for religious objectors.

To be more precise, Tomei's bill repealed the religious defenses to homicide, manslaughter, and criminal mistreatment only as pertaining to minor

children. It left in the Christian Science language allowing medical neglect of dependent adults.

Starr prepared a Senate bill that repealed the religious defenses outright for both children and dependent adults.



Dr. Jim Lace (left) was a tremendous help to us. When I called him to ask if we could borrow office furniture, he and his wife were in Denver visiting their first grandchild, but he promised to be out within hours after their plane landed back in

Portland and get us “fixed up.” Sure enough, he was at our door with chairs and then crawling around on our floor getting our computers and printer hooked up. A few hours later he sent his clinic’s maintenance man out with more furniture.

### **Church will not oppose removal of laws it got enacted**

On January 15 Nielsen had another superb column in *The Oregonian* supporting the Tomei and Starr bills and mentioning that the Swans had relocated to Salem to work for them.

Oregon Christian Science lobbyist John Clague wrote in reply that his church supported “the REASONABLE practice of spiritual care” but did not oppose the bills.

“That is surprising,” we posted in reply, “given that the Christian Science church single-handedly got the religious defenses to homicide, manslaughter, and criminal mistreatment into Oregon law. Nationwide nothing has been too outrageous for this church to ask for. In Delaware they got a religious defense to first-degree murder (since repealed). In Arkansas they got and still have today a religious defense to capital murder.”

Clague told Tomei and Starr that the church did not oppose Tomei’s bill, but would raise objections to Starr’s bill. The prosecutors also preferred Tomei’s bill. They said they were having a hard enough time keeping up with the children’s cases. So Tomei’s bill, HB2721, advanced, but Starr’s bill was always “waiting in the wings” for filing.

We still feared that Clague would try to amend the bill with a pro-Christian Science definition of “reasonable” reliance on prayer as the church has in other states. We alerted the district attorneys’ association. They assured us they would stoutly resist any such effort. Like other states, Oregon already has a reasonable person standard for most people. It does not need a reasonable faith healer standard.

Nielsen had laid out the goal so clearly:

One standard for all parents. Equal treatment under the law, with equal measures of toughness and compassion.

Not a separate legal system with special privileges for certain parents with certain religious beliefs.

### **Law prof supports religious defenses to homicide**

We wanted to list Oregon professionals as honorary members on our stationery. Warren Binford, director of the Juvenile Law Clinic of Willamette University Law School, was recommended to me. When I called her to explain the bill, she interrupted, saying firmly, “I disagree with you.” I asked her if that was because she belonged to a religion with objections to medical care. She replied, “It’s because I respect others’ religious beliefs.”

That was the low point in our Oregon morale. I was stunned that a professor specializing in juvenile law at a Salem law school believed Oregon should have laws allowing reckless behavior that caused deaths of children. If Binford testified against the bill, legislators might decide the issue was too complicated and controversial to deal with, we feared.

However, we went on to gather a fine list for our stationery of Oregon honorary members supporting the bill, including health care providers, law enforcement personnel, a cleric, an attorney, and the author of a book on religious abuse at a private reform school.

We also solicited endorsements for the bill from state organizations. Nine plus CHILD, from different parts of the political spectrum, officially endorsed the bill:

- Oregon District Attorneys Association
- Oregon Anti-Crime Alliance
- Oregon Medical Association
- Oregon Pediatric Society
- Oregon Nurses Association
- Oregon Commission on Children and Families

Prevent Child Abuse Oregon  
 Children's Trust Fund of Oregon  
 Diabetic Support Services, Inc.

### **Legislature honored pediatrician's charity work**

Doug and I met with each member of the House Judiciary Committee individually. Dr. Lace accompanied us whenever he could arrange time free from his clinic appointments. He was a familiar figure at the Statehouse as a lobbyist for both the Oregon Medical Assn. and the Oregon Pediatric Society. Also, the legislature had passed a resolution commending Jim for his charity work, particularly his annual trips to Tanzania to provide medical care for AIDS orphans.

### **Oregon gave religious right to cause death "recklessly" and with "extreme indifference"**

The House Judiciary Committee meeting was a *tour de force* with every witness giving such strong, clear testimony for the bill. My testimony emphasized that Oregon was one of only three states with a religious defense to homicide, one of only three states with a religious defense to manslaughter, and the only state with a religious defense to both crimes. HB2721 repealed a law allowing parents to cause a child's death "recklessly under circumstances manifesting extreme indifference to the value of human life" if parents gave "care or treatment solely by spiritual means pursuant to [their] religious beliefs." ORS 163.115

It is astonishing that any church would ask for the right to reckless, callous behavior causing death of helpless people.

The criminal mistreatment law allows not just medical neglect but also several other kinds of victimization. In 1998 the statute flatly said that criminal mistreatment charges "do not apply" if parents or guardians provide an elderly or dependent person "with spiritual treatment through prayer from a duly accredited practitioner of spiritual treatment. . . , in lieu of medical treatment, in accordance with the tenets and practices of a recognized church or religious denomination. . . ." ORS 163.206 In the 1999 compromise the religious exemption was amended to allow criminal mistreatment only of persons at least 15 years old, perhaps on the rationale that 15- to 17-year olds should be allowed to decide for themselves whether to accept medical care.

### **Teens still need legal protections**

The death of 16-year-old Neil Beagley in 2009 had, however, highlighted the need for more legal protection of that age group. Beagley was home-schooled; he had little contact with people outside of the Followers. He adored his dad and worked side-by-side with him. The boy was short and slight; his dad towered over him in bulk and authority. It was irrational for policymakers to expect that Neil Beagley could break with the family's religion and ask for medical treatment as he lay dying of an undiagnosed illness.

### **Special privilege for one kind of faith**

The laws, I testified, reward fanaticism and absolutism. Parents can commit homicide and manslaughter with impunity if they rely "solely" on spiritual means, but not if they combine their prayers with any material remedy. A similar law in Ohio led to Ohio prosecutors arguing that a father could not raise the religious defense because he had, in addition to prayer, given his baby cool baths and orange juice to bring down fever, used a shoestring to tie the umbilical cord, and called 911 after the baby stopped breathing.

The criminal mistreatment defense was even more glaringly a special privilege for Christian Science. It allowed parents to harm or permit harm to their children if they retained "a duly accredited practitioner" to give the "spiritual treatment" prescribed by "a recognized church." If the parents did the praying themselves or if they hired somebody to pray who was not "accredited" by a "recognized church," they could not "take advantage" of the law.

The Constitution prohibits the state from favoring one religion over another. Surely this criminal mistreatment exemption is unconstitutional.

### **"Critical mass" reached in 2011**

John Clague sent this letter to the House Judiciary Committee before the 2011 hearing:

The Christian Science church does not oppose HB2721.

The situation in Oregon with children dying because medical care was withheld for religiously motivated reasons is tragic and has reached critical mass. While we continue to feel that *responsibly* practiced spiritual care is effective and can be a safe healthcare option for

those who wish to use it, we also see that this is a unique situation in Oregon. We agree that Oregonians should stay focused on finding the best way to keep their children safe and happy. To this end, we are not opposed to the steps Oregon lawmakers are taking to ensure equal treatment under the law.

Spiritual care should never be practiced at the expense of a child's life.

### **Not at "expense of a child's life"**

Tomei quoted the church's last sentence in her testimony. Although the church conceded only in the "unique" state of Oregon, its letter will be helpful for advocates working for equal protection of children in other states. We do not see how the church can argue for religious defenses in any state criminal codes given their position in Oregon. As for the Oregon deaths reaching "critical mass" in 2011, 78 deaths of Oregon Followers' children were known in 1998, yet the Christian Science church continued to lobby then for its religious exemptions to homicide, manslaughter, etc.

### **Unanimous vote in evenly divided House**

The House Judiciary Committee passed HB2721 by 12-0, and the full House passed it by 59-0. The one legislator absent was a cosponsor.

This vote impressed several Senators, as well it should have. For a House divided exactly 30-30 to vote unanimously for a bill that touched on religious and parents' "rights" was a wonderful outcome.

I was still a little nervous for I've seen Iowa legislators in one chamber pass a bill unanimously because the leadership has an agreement with the other chamber's leadership to kill the bill.

My fears were groundless, however. We met with all five members of Senate Judiciary, and all promised to vote for the bill. One Democratic and two Republican Senators signed on as cosponsors.

After four months in Oregon we needed to return to Iowa. As a courtesy, Judiciary Chair Floyd Prozanski, D-Eugene, scheduled our bill for hearing for 8:30 a.m., April 26—the first hour of the first day that the Senate could hear House bills.

### **Other religious crimes in Oregon**

The week before the hearing the *Oregonian* ran a five-part series on the Rajneeshees, who settled in Oregon 25 years ago. The group tried to murder

public officials and sickened hundreds of people by poisoning food at restaurants.

"They are a vivid illustration of why Oregon should not have laws allowing people to commit crimes in the name of religion," I testified. "There are more than a thousand religious denominations in America, and we would have anarchy if everyone could act out his religious beliefs regardless of the consequences to others.

"Medical neglect may not be as sensational or bizarre as what the Rajneeshees were doing, but it has been even more deadly to Oregon children," I pointed out.

At a Prevent Child Abuse meeting in early February, Mickey Lansing, director of the Oregon Commission on Children and Families, had promised to ask the Governor if his commission could endorse the bill. I e-mailed and left voice mail messages for her every week asking if the Governor had given his permission. She assured me she had put in her request and would ask again. The week before the Senate hearing, she finally got his permission to endorse the bill and testify for it.

### **Followers' deaths common knowledge at h.s.**

In her testimony she announced "a personal anecdote." She said she graduated from West Linn High School and would be attending her 50<sup>th</sup>-year class reunion this summer. I wondered where in the world she was going with this story for the Senators.

However, she continued that her classmates were well aware back then that the Followers of Christ were the people who didn't take their kids to doctors. Sometimes those kids died and were not seen again at school.

"Fifty years is a long time," Lansing concluded. You could have heard a pin drop.

### **A fifty-year-old emergency**



Chairman Prozanski (left) recommended that the bill be made an emergency bill, which would take effect the day after the Governor signed it. The committee added this final paragraph to the bill: "This 2011 Act being necessary for the immediate preservation of the public peace,

health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.”

And so, after an emergency that has existed for at least fifty years, the Governor signed an emergency bill into law on June 8 that removes all religious exemptions related to medical care of sick children.

Susan Nielsen’s columns against the religious exemptions appeared in *The Oregonian*, Feb. 4 and July 25, 2010, and Jan. 15 and May 15, 2011.

## How Oregon stands now

Oregon has moved from having very bad laws on medical neglect to being one of six states with absolutely no religious exemptions in the civil or criminal code pertaining to medical care of sick and injured children. The others on our pristine honor roll are Hawaii, Nebraska, Massachusetts, Maryland, and North Carolina.

### Preventive & diagnostic measures still exempt

Oregon still has a plethora of religious exemptions from preventive and diagnostic measures—in fact, the most of any state. Oregon has religious exemptions to immunizations, metabolic screening, newborn hearing screening, Vitamin K drops, and bicycle helmets. It allows all parents to decline prophylactic eyedrops for newborns. It allows religious exemptions from all treatment and prevention measures that might be required in a public health emergency such as a bioterrorism attack.

Oregon is a famously tolerant state and has more than its share of non-medical healers. I met people from God’s Get-Well Hotel, Ring of Fire Ministry, and other unusual groups on a TV program in Portland. “Keep Portland weird” is a popular bumper sticker.

### Oregon’s high rates of vaccine exemptions

It is extremely easy to get a religious exemption from immunizations in Oregon because state administration rules define a religion as “any system of beliefs, practices or ethical values.”

In 2007, 28% of Ashland kindergarteners had religious exemptions from immunizations, the highest rate for any U.S. city. At two Ashland schools about two-thirds of the students had exemptions from immunizations. At a private

school in Eugene, believed to be the Waldorf School, 76% of the students claimed religious exemptions from one or more vaccines.

### Exemptions not required by Constitution

No court has ruled that constitutional religious-freedom rights include a right to deprive children of preventive and diagnostic measures, and several have ruled that states have the right to require these measures regardless of religious objections. See, for example, *Workman v. Mingo County Schools*, 667 F.Supp.2d 678 (W.V. 2009) and *Douglas County v. Anaya*, 694 N.W.2d 601 (Neb. 2005).

### Some exemptions for care of dependent adults

Oregon also retains laws allowing medical neglect of dependent adults, who are by definition unable to care for themselves. Of course competent adults have the right to refuse medical care and then caregivers do not have a duty to provide it, but Oregon’s homicide and manslaughter laws have exemptions based on the caregiver’s religious beliefs. The amended murder by abuse or neglect statute at Oregon Revised Statutes 163.115 allows religious objectors to cause the death of a dependent adult “recklessly under circumstances manifesting indifference to the value of human life” if the guardian provides “care or treatment solely by spiritual means pursuant to the religious beliefs” of the dependent adult or his guardian. The new first-degree manslaughter statute (ORS 163.118) has a similar religious exemption for medical neglect of dependent adults, while the criminal mistreatment law allows several kinds of exploitation and harm to dependent adults. ORS 163.206

Religious objectors who deprive dependent adults of lifesaving medical care can, however, be charged with second-degree manslaughter or criminally negligent homicide in Oregon.

CHILD’s mission is limited to children; someone else will have to take up the work of protecting dependent adults another year.

We remain profoundly grateful that Oregon has drawn a clear line in the sand. Religious-objector parents may take foolish risks in depriving their children of immunizations, Vitamin K drops, and health screens, but when a child is sick or injured and reasonable parents would recognize that the child is at risk of substantial harm, all parents have a legal duty to provide medical care.

The data on vaccine exemptions in Oregon was cited in *The Oregonian*, Sept. 10, 2008, and *Associated Press*, Jan. 10, 2009.

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## The picture worth a thousand words



“Show them The Picture” was an Oregon CHILD member’s advice on how to lobby in Salem. The above photo of a hemangioma pushing Baby Alayna Wyland’s eyeball out of its socket was an icon for the medical neglect by the Followers of Christ church in Oregon City, which encourages reliance on prayer and ritual to heal all disease.

The first doctor to see the baby after Child Protection Services (CPS) took custody of her said her actual condition was far worse than seen in the image. The picture was bad enough, however; some legislators we met with refused to look at it.

It is extremely rare for the public to see an image of a child in the custody of CPS, whose interventions are strictly confidential. It happened in this case because the photo was part of a sheriff’s arrest warrant, which is a public record.

One has to wonder how many other children have suffered abuse and neglect that we have no pictures of.

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## Followers sentenced for medical neglect of baby

On June 24 Timothy and Rebecca Wyland of Beavercreek, Oregon, were sentenced to 90 days in

jail and three years’ probation for felony mistreatment of their daughter Alayna. Members of the Followers of Christ church in Oregon City, Oregon, the Wylands would not get medical care for the baby while a hemangioma grew to the size of a golf ball around her eye.

According to court documents Mrs. Wyland anointed Alayna with oil whenever she changed her diaper and wiped a yellow discharge from her eye each day.

Alayna’s condition was reported anonymously to the police when she was eight months old. Medical care was court-ordered for her.

### Parents would never get medical care

At the family court hearing the Wylands said they never considered getting medical care for their baby and would not have if the state had not intervened. When asked why not, Mrs. Wyland replied, “Because I believe in God and put my faith in him.”

Mr. Wyland expressed a similar faith, saying it was God’s will if the baby was not healed through prayer and ritual. “Sometimes God lets children die,” he said.

### Court keeps family together and child safe

The family court approved a plan that allowed the Wylands to take care of Alayna for most of the day at least five days a week before returning her to a foster parent. The Wylands were required to give her some of the medications she needs, to provide video verifying they were doing so each day, and to contact a physician whenever she looked ill.

They complied with all terms of the court order.

They were charged with first- and second-degree criminal mistreatment. Clackamas County prosecutor Christine Landers argued that the parents were well aware their baby needed medical treatment, but refused to get it on religious grounds.

### Baby permanently impaired

Doctors and investigators described the hemangioma as a spongy maroon and strawberry-colored bulging mass that engulfed her eyeball and was pushing it from the socket. Doctors testified that, without medical intervention, the little girl would likely have become blind in that eye.

With medical treatment the growth has shrunk substantially. Alayna’s vision in that eye is now between 20/180 and 20/270, but the eyeball is not

yet properly set in the socket. She has double vision and will probably never have normal depth perception.

### **Defense: parents not aware of danger**

Wyland's attorney John Neidig tried to present the Wylands as victims of an over-zealous Child Protection Services that was prejudiced against the Followers. "A mushroom cloud of misinformation poisoned by religious prejudice" had erupted at CPS, he charged.

His last witness was Dr. Jo Anne Nielsen, who treated Alayna. She confirmed that the parents were fully compliant with her treatment and loved their baby. Nielsen also said she treats five to seven Followers of Christ families, some under court order. (We were glad to hear that.)

The defense tried to introduce a psychology professor to testify about how and why people acquire beliefs and how they use their beliefs to interpret the world around them. The judge excluded the testimony as irrelevant.

Neidig told the jury the Wylands believed the hemangioma would shrink and then vanish by the time Alayna started school. Family, friends and even strangers assured them it would and a relative had a similar growth that went away, the attorney said.

It was, however, impossible to persuade the jury that the Wylands did not know the baby needed medical care with the photos of her grotesquely misshapen face before them and the Wylands' own statements that they would not have deviated from their religious beliefs even if they knew their daughter was dying.

The jury deliberated only 75 minutes before unanimously returning a guilty verdict on the felony charge.

The Wylands' sentence of 90 days in jail and three years probation is the maximum penalty for criminal mistreatment when defendants have no prior criminal record.

### **Parents must get medical care during probation**

Among their probation requirements, the Wylands must follow all medical recommendations, take Alayna to doctor's appointments and notify probation officers when spiritual healing methods are used on Alayna.

### **Judge: parents failed their daughter**

"Your prayers should complement not compete with proper medical care," Clackamas County Circuit Judge Jeffrey Jones said at sentencing.

Alayna came to the courthouse in a polka dot dress with her parents. The hemangioma was still visible, but much smaller.

"It is fairly stunning that the child was brought to this courtroom or to the courthouse," Jones said.

Addressing the many Followers in the courtroom as well as the Wylands, the judge said that the damage to Alayna "could have been prevented if the mother and father had protected rather than neglected and failed their daughter."

A restitution hearing is set for Aug. 29 to consider whether the Wylands should reimburse the state for court-ordered medical care.

Sources include *The Oregonian*, July 2-30, 2010, and May 27-June 24, 2011 and KATU TV, June 24, 2011.

### **Church of Firstborn mom charged in son's death**

In July Susan Grady of Tulsa, Oklahoma, was bound over for trial in the death of her nine-year-old son Aaron. The boy died June 5, 2009, of untreated diabetes, when Grady lived in Broken Arrow, but she was not charged until December, 2010.

Grady belongs to the Church of the Firstborn, which has let scores of children die without medical care. Grady told the police that she "believes in faith-based healing through prayer."

### **Getting well? Just "the flu or something"?**

Several church members, including the pastor, Earl Weir, and Susan's father, came to the Grady home to pray for Aaron during his illness. Witnesses told police that Aaron had trouble breathing and was vomiting, but then the vomiting stopped, which led Grady to believe Aaron was getting well.

He was able to eat only pureed vegetables and drink broth and juice. He had to be carried to the bathroom. But Weir said that on June 4 the boy "was talking and everything. He was just acting like he had the flu or something."



On June 5, however, Aaron did not talk or respond. Susan's father suggested that her son needed medical care. However, Susan "chose to continue to pray and leave this in the hands of the Lord," her brother told police.

### **Church takes no responsibility for members' beliefs**

Pastor Weir said God's word proves that faith is all that is needed, but expressed no feeling of responsibility for Aaron's death.

He also said, "We just preach faith. [The Bible] says to give your all. The whole church believes that way. . . . [The church members] do what they want to do. That's their decision."

Prosecutors say other members of Grady's church get necessary medical care and that Grady previously sought medical attention for both Aaron and herself.

### **Mom needed to prove her faith**

Grady told investigators that she had strayed away from the Church of the Firstborn for several years and only recently returned. She admitted feeling the need to prove that she would rely solely on God to heal an illness.

Grady is charged with felony neglect and manslaughter. In May, 2011, Special Judge Deborah Leitch dismissed the neglect charge, holding that the neglect statute as it existed at the time of Aaron's death was unconstitutionally vague. Legislators had repealed the definition of child neglect in May, 2009, and did not restore it until 2010.

In June, 2011, Tulsa County District Judge Kurt Glassco ordered the neglect charge against Grady reinstated. Glassco ruled that "the plain meaning of the words 'child' and 'neglect' would put a person of ordinary common intelligence on notice of the prohibited behavior."

### **Could onlookers be charged for failure to report?**

Oklahoma has one of the strongest reporting laws in the nation. "Every person having reason to believe" that a child is a "victim of abuse or neglect" must report the case to the Oklahoma Department of Human Services. "No privilege or contract shall relieve any person from the requirement of reporting. . . ." The "reporting obligations" are

"individual." No employer or supervisor can interfere with them. Okla. Stat. 10A §1-2-101(B) 1, 3, 4

Knowingly and willfully failing to "promptly report suspected child abuse or neglect" is a misdemeanor. Okla. Stat. 10A §1-2-101(C)

We asked Asst. Tulsa County Dist. Atty. Sarah McAmis whether the pastor and others in the Grady home should have been charged with failure to report child neglect. McAmis declined to discuss the office's charging decision.

Sources include the *Tulsa World*, Dec. 29, May 17, and June 20.

## **Federal appeals court rejects parent's claims for religious exemption**

On March 22 the U.S. Court of Appeals for the Fourth Circuit upheld West Virginia's immunization law as constitutional. West Virginia is one of two states that do not allow a religious exemption from immunization of schoolchildren.

Jennifer Workman of Lenore sued the school system for excluding her unvaccinated daughter from school. She cited two Bible verses from First Corinthians as the basis of her religious beliefs against vaccinations. They said the human body is a holy temple given by God and therefore must not be defiled.

The U.S. District Court for the Southern District of West Virginia upheld the state requirement in 2009.

On appeal, Workman argued again that the school system had violated her free exercise, equal protection, and due process rights guaranteed by the Constitution.

### **No violation of child's or parent's rights**

The appellate panel ruled that the immunization law does not violate either a parent's or child's rights to free exercise of religion. They cited longstanding U.S. Supreme Court precedent for their ruling, including *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), and *Prince v. Massachusetts*, 321 U.S. 158 (1944).

The judges also held that the immunization law was a neutral law with no intentional or purposeful discrimination against any religious believers.

Finally, it considered Workman's claim that the school infringed on her parental right to do what she reasonably thought best for her child and that the state could not infringe upon this fundamental right without a compelling interest in doing so. Courts call this a strict scrutiny standard of review that the state must meet to justify its interference.

### Standard of review not decided

Unlike the Nebraska Supreme Court in *Douglas County v. Anaya*, 694 N.W.2d 601 (Neb. 2005), the Fourth Circuit U.S. Court of Appeals did not decide the standard of review. It did, however, rule that West Virginia had a compelling interest in requiring that all schoolchildren be immunized. It also ruled that the "fundamental rights" meriting "heightened protection against state interference" must be "deeply rooted in the Nation's history and tradition." The Fourth Circuit held that a right to a religious exemption from immunizations failed that standard since the U.S. Supreme Court had ruled against it more than a century ago and many state and other federal courts had also ruled against it.



CHILD filed an amicus brief in support of the state law. It was prepared by Professor James Dwyer of William and Mary College of Law (left). It is the fourth amicus brief Jim has done for CHILD *pro bono*. We appreciate this very generous gift of his time and scholarship.

We also thank the Hamstead and Associates firm of Charles Town, West Virginia, for filing the brief.

We were pleased to have these organizations co-signing our brief: the West Virginia Chapter of the American Academy of Pediatrics, Center for Rural Health Development, West Virginia Association of Local Health Departments, and Immunization Action Coalition.

CHILD's amicus brief made two arguments that were not addressed by the court. We argued that the state need only show a rational basis for the law and did not have to meet the strict scrutiny standard of review.

### Child's rights to equal protection not taken up

Second, CHILD argued that the individual child has a constitutional right to the equal protection provided by immunizations. The Fourteenth Amendment rights of children to equal protection have rarely been litigated, and the Fourth Circuit did not address that issue in *Workman*.

Nevertheless, we were glad the court ruled that the state has the right to require immunizations without exception for religious belief. Given the many precedents of this ruling, we expected the court to rule in favor of the state.

It is a joy to work with the West Virginia child welfare groups. Year after year they fend off legislators who think West Virginia should be like the 48 states with religious exemptions. Our spunky friends tell the legislators that their state is the one doing things right and the other 48 states should copy West Virginia.

Mrs. Workman says she will petition the U.S. Supreme Court for review.

The citation for this unpublished ruling is *Workman v. Mingo County Board of Education et al.*, No. 09-2352 (Fourth Circuit, U.S. Court of Appeals, March 22, 2011).

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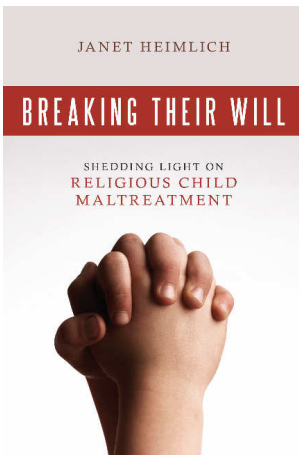
### New book shines light on religious child maltreatment



Award-winning journalist Janet Heimlich analyzes religion-related child abuse and neglect in her book *Breaking their Will: Shedding Light on Religious Child Maltreatment*. She describes both Christian and non-Christian abuses in her chapters on physical

abuse, emotional abuse, sexual abuse, ritual abuse, and medical neglect.

In final chapters she recommends solutions, including repealing religious exemptions from child health and safety laws and U.S. ratification of the United Nations Convention on the Rights of the Child.



Children’s entertainer Raffi Cavoukian says of the book, “This groundbreaking work can help bring us to a new religious moment in which the world’s faith traditions uphold the sanctity of the child. Not just for Americans (primary audience), the book speaks to all those who care about

ending the poisonous pedagogy of punitive parenting, wherever they live. For this timely and compassionate work, the author deserves praise and gratitude. May her words be read and heeded by leaders of all religions and their denominations.

“Please visit [childhonouring.org](http://childhonouring.org) and sign the Plea To Faith Leaders urging they call for a ban on all forms of violence and maltreatment against children. The time is ripe for a new covenant with humanity’s children, one by which we respect their personhood and honour their own hearts and minds. Let all who love children move from “Breaking Their Will” to healing their spirit. . . .”

As a freelance reporter for National Public Radio, Janet Heimlich won nine journalism awards, including the Texas Bar Association’s Gavel Award.

*Breaking Their Will* is published by Prometheus Books and available in bookstores.

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## In Memoriam: MaLinda (Mindy) Monet Houser

by Lisa Kendall

*The least initial deviation from the truth is multiplied later a thousandfold. ~Aristotle*

My sister’s life began as tragically as it ended. Born to parents who did not want or love her, the world she knew was a hostile place. In any other home she would have been a cherished member of the family. The pretty blue-eyed girl born two years after me was known for her goofy humor and curly, blond hair. She was surprisingly cheerful given her suffering and pain.

Mindy was severely neglected from the day she was born. Only decades later did I learn that no one wanted to pick her up when she cried. With no advocate in her early life, medical and emotional neglect were more of a companion than an issue.

### **Baby associated with rape, abandonment**

When my mother was 18, she was forced to leave home. In need of stability, she married a few months later. That marriage compounded her sorrows. The new husband beat and raped her and then left us. My mother had a mental breakdown plus physical injuries and was hospitalized for six months while Mindy grew inside her. There was little to celebrate at Mindy’s birth.

### **Chosen for salvation in Fife’s Move of God**

Religion became a refuge for the single, impoverished mother of two. An emerging cult called the Move of God, or the Move, led by Reverend Samuel Fife offered her a future that mainstream society could not. The End Times were imminent, but Move members would be the chosen saved. Her faith also relieved my mother of the responsibility to attend to our education and health care. The Move did not prohibit members from seeking medical care, but its promotion of faith healing meant that some children, like my sister and me, did not get medical care.

### **Medical neglect**

Mindy had severe eczema. She had bleeding, weeping wounds on her arms. The sticky sores sometimes even kept her arms from opening. Move elders put vitamin E ointment on them, but did not get her medical care. She needed glasses, but was not given them.

### **Emotional abuse**

More serious than the medical neglect was the emotional and physical abuse Mindy suffered. Our mother called me the antichrist and Mindy the devil. Move elders advocated humiliating and violent punishment of children. If Mindy wet the bed, she was forced to wear her wet diaper pinned to her dress. She was frequently beaten.

### **Educational neglect**

We were often taken out of school for religious instruction. Secular education had a low priority in

the Move. Three evenings a week we went to Move meetings that could last until midnight or 1 a.m. After falling asleep on metal chairs or the concrete floor it was hard to stay awake in school the next day.

### **Deliverance farm for bad children**

Our mother saw Mindy as a bad seed and impossible to control. To cure her, she was sent to one of Fife's deliverance farms for bad children. At the age of nine, she left Portland, Oregon, for Ware, Massachusetts. We sent a third grader to a place we had never heard of to live with people whose names we did not know.



*Lisa and MaLinda*

After three years, she returned to us, a family she barely remembered. Immediately upon seeing her, we all noticed her badly distorted body. Somehow, her caregivers had missed the worst case of scoliosis Oregon had ever seen. An 83% curvature meant surgery, lengthy hospital stays, a steel rod in her spine, and extensive scarring. Mindy's pain and longing for a pretty back, or a less deformed one, became defining characteristics of her life.

### **Sister hinted at abuses**

The neglect Mindy suffered at the deliverance farm in Massachusetts mirrored the abuse that I have only reluctantly considered. At the time I barely responded to her vague disclosures. Through an internet listserv I have recently met others who were at Ware as children. The horrors they describe

are vivid; I picture my little sister enduring them far from home and without a friend.

Mindy died of a heroin overdose a few years ago. I don't even know in what city and don't remember the year. Whether her death was intentional or not, I'm glad she no longer suffers. There was not enough love for her and no place for her in this world.

I wish someone had told my sister that she was special. Her days were so empty that in many ways, she is more alive in my memory than she ever was in life. No one really appreciated the little girl with whom I colored pictures and dressed dolls. Not even me.

Many doctors, social workers, teachers, principals, neighbors, and family members knew she was in harm's way. They saw that no family member was there when she went through surgery. They saw that her older sister was the only one who ever visited her. I wonder how differently things might have gone if someone at the children's hospital had contacted authorities about this very severe case of neglect.

In honor of my sister and others like her, please do what you can to protect the children who cross your path. Thank you for helping to make this world more hospitable to the children with no one to speak for them.

*Mindy's big sister, Lisa Kendall, MPA, is an advocate for animal, children's, and environmental rights. She lives in Portland, Oregon.*

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## **About CHILD, Inc.**

CHILD is dedicated to stopping child abuse and neglect related to religious beliefs, cultural traditions or quackery. CHILD provides research, public education and amicus briefs. It opposes religious exemptions from child health and safety laws.

Application forms for joining CHILD are in the Memberships and Donations section of our webpage at [www.childrenshealthcare.org](http://www.childrenshealthcare.org). Dues are \$40 a year for an individual or family or \$15 a year for a full-time student. CHILD is recognized by the IRS as an educational charity; donations to CHILD are tax-exempt.