

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

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On September 4, the Tennessee Supreme Court sitting in Knoxville will hear the appeal of Jacqueline Crank nearly twelve years after her daughter Jessica died of Ewing's sarcoma.

In 2002 Crank and her pastor, Ariel Sherman, of Lenoir City, took the girl to a chiropractor, who advised them that she appeared to have cancer and should be taken to an emergency room immediately. Later Sherman called the chiropractor and said they were taking Jessica to a doctor in Boston, but they did not. Instead, they relied exclusively on prayer and ritual for over four months until the state located the girl and took custody of her. She died September 15, 2002, at fifteen years old.

Mrs. Crank and Sherman were convicted of misdemeanor neglect of a dependent in 2012. Sherman has since died.

A main reason this case has been in the court system for so long is argument over the meaning of Tennessee's religious defense to aggravated child abuse, neglect, and endangerment:

Nothing in this part shall be construed to mean a child is abused, neglected, or endangered or abused, neglected or endangered in an aggravated manner for the sole reason the child is being provided treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof in lieu of medical or surgical treatment. Tennessee Code Annotated 39-15-402(c) [enacted in 1994]

The law uses Christian Science terminology calling prayer "treatment" and faith healers "practitioners." Both chambers of the Tennessee legislature passed it unanimously on the same day in 1994. The amendment sponsors, Senator Holcomb and Representative Napier, both told their colleagues that it was authored by the Christian Scientists to protect their parents.

Ariel Sherman and Mrs. Crank were not Christian Scientists. Sherman started fellowship groups by different names in several states.

Mrs. Crank argues that her conviction should be reversed because the religious defense violates Due Process as unconstitutionally vague and violates the Establishment Clause and Equal Protection Guarantees in protecting medical neglect by Christian Science parents but not her own reliance on faith to heal her daughter.

The state argues that the law is not vague, but does not discuss whether it violates the Establishment Clause.

Our organization, Children's Healthcare Is a Legal Duty or CHILd, agrees with Mrs. Crank that the religious defense is unconstitutional, but we ask the Tennessee Supreme Court to hold it unconstitutional in part because it violates the Fourteenth Amendment equal protection rights of children.

It is a travesty that Tennessee passed a law letting sick children be deprived of medical care with no concern whatsoever for the children. This law has cost the county prosecutor many hundreds of hours and tied the case up in the court system for years, yet the legislature passed it unanimously in one day with no discussion.

Similar laws exist in many states and nearly all because of Christian Science lobbying. The laws have contributed to many preventable deaths of children. They have encouraged parents and faith leaders to believe that the state approves of depriving sick children of medical care—that exclusive reliance on prayer and ritual for healing is not only legal but safe. They have discouraged persons mandated to report abuse and neglect from reporting cases of religion-based medical neglect of children to Child Protection Services. They have discouraged law enforcement from investigating and prosecutors from filing charges. They have tied up several cases in the court system for many years when charges were filed.

CHILD's amicus brief in the Crank case is attached. CHILD President Rita Swan plans to attend the oral arguments. Our webpage at [www.childrenshealthcare.org](http://www.childrenshealthcare.org) has information about religion-related child abuse and neglect nationwide.

We hope the Tennessee media will cover this important case. In the past half century constitutional rights of many minorities have been established by courts. However, the children in faith-healing sects, who are placed at risk by religious exemption laws, cannot bring lawsuits on their own behalf. These laws are an unusual example of discrimination *de jure*, denying one group of children protections the state extends to others.