

## ***LEGAL NOTES***

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### **“Care and Safety of Children on Church Premises”**

My friend and church legal scholar, Richard Hammar, recently wrote an article on a very unusual case in the State of Alabama. I wish that all of our constituency could read this article and think about some of the ramifications discussed. The case is known as *Hargrove v. Tree of Life Christian Daycare Center*, 629 So.2<sup>nd</sup> 1242 (Alabama 1997). I will cite the article as a source at the end of this column.

#### *Factual Background*

This case involved a church-operated childcare center in the State of Alabama. Three teenage workers in the childcare center kidnapped a three-month old child placed in the center’s care. In addition to being under nineteen years of age, certain other problems existed regarding the fact background of the teenage girls working at the church childcare center. Thankfully, the child was recovered unharmed. Unfortunately, the parents of the child filed a lawsuit against the center, on numerous theories, including the following: negligent hiring, negligent supervision, suit against an employer for the negligent act of an employee (“master-servant” liability), and breach of contract.

The Alabama Supreme Court ruled that the lawsuit should be brought to trial on the theory of breach of contract by the childcare center. The childcare center had provided the parents with a document known as “Operating Policies”. This policy manual obligated the center to maintain certain minimum standards of care for the children in the childcare center. The Court ruled that violation of these policies imposed liability upon the childcare center, for breach of contract.

Ironically, portions of the operating procedures set forth by the childcare center obligated it to employ only persons qualified in accordance with *state* standards. However, the state standards did not even apply to church-operated child or daycare centers! Be careful to review your handbooks or policy manuals and make sure that your church has not obligated itself to a standard not even applicable to churches!

#### *Application*

There are other numerous applications to churches arising from the holdings in this case, which are important enough to devote next month’s article to them. I will highlight the following applications in this article:

1. While the *Hargrove* case applies only in the State of Alabama, Supreme Courts of other states may find liability imposed on other theories denied in the *Hargrove* case. Specifically, negligent selection of employees, negligent supervision of employees, and master-servant liability may be relied upon by other courts to impose liability on a church-operated center or nursery.

2. The possibility of premises liability and other types of liability is great in operation of daycare centers or church nurseries. Specifically, because of the increased number of divorces and child custody battles, disgruntled parents or other relatives may see church-operated daycares or nurseries as potential targets for kidnapping children. This is occurring with increasing frequency, and it is churches which will be named as defendants in these lawsuits.

There are other applications regarding this issue, which I plan to discuss in next month's article.

*Source*

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*The writer is not engaged in rendering legal or other professional services herein. If legal advice or other expert assistance is required, the services of a competent professional should be sought.*