

AHEM News

Volume 1 • No 2 • Winter 2004

Advocates for Home Education in Massachusetts

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Current State Issues . . .

Chronology of SD 2259

In September, Advocates for Home Education in Massachusetts alerted our Friends to the existence of SD 2259, a late filed bill by state Senator Brian Lees (Republican—First Hampden and Hampshire). SD 2259, if passed, would amend M.G.L. Chapter 76, section 1, the compulsory attendance statute, to include the category “home educated” under the categories of people exempted from the compulsory attendance statute. Currently, homeschoolers are exempt from attending school, falling under the “otherwise instructed” category. Because the bill was filed late, the Joint committee on Rules has to decide whether or not to release it to be admitted and assigned a number, from where it would be assigned to the Education committee.

SD 2259 would add a phrase (in italics below) to Chapter 76, Section 1, the compulsory attendance statute:

“Every child between the minimum and maximum ages established for school attendance by the board of education,... shall, subject to section fifteen, attend a public day school in said town, or some other day school approved by the school committee,... but such attendance shall not be required of a child whose physical or mental condition is such as to render attendance inexpedient or impracticable subject to the provisions of section three of chapter seventy-one B or of a child granted an employment permit by the superintendent of schools when such superintendent determines that the welfare of such child will be better served through the granting of such permit, *or of a child who is being instructed through a home education program approved in advance by the superintendent or school committee*, or of a child who is being otherwise instructed in a manner approved in advance by the superintendent or the school committee.”

Tampering with the statute in this way does nothing to help homeschoolers, (we already have the legal right to homeschool as we are considered to fall in the “otherwise instructed” category) and could

conceivably make life more difficult for us. Adding new language to Chapter 76 could open the door to a reinterpretation of the *Charles* case which now sets out the guidelines for homeschooling, and this would create in the best case confusion and in the worst case possible restricting of our homeschooling freedom. Also, by introducing the term “home education” into legislation, it may become necessary to define it which could well be opening another can of worms. Either of these scenarios leaves the possibility of making it harder to homeschool in Massachusetts. For these reasons, AHEM is opposed to this bill.

After several discussions with Senator Lees's office, AHEM representatives determined that passage of SD 2259 would not be in the best interest of Massachusetts homeschoolers, and wrote to Senator Lees, outlining our reasons for opposing the bill. (See letter below.) We encouraged AHEM Friends to do the same.

In all of our discussions with Senator Lees's office, it has been apparent that SD 2259 was filed with the intention of helping homeschoolers. Despite our opposition to passage of the bill, all AHEM communication with Senator Lees's office has stressed our appreciation for his concern, and our hopes for working together in the future.

Letter from AHEM to Senator Lees:

September 23, 2003

Dear Senator Lees:

Advocates for Home Education in Massachusetts (AHEM) is an advocacy organization for Massachusetts homeschoolers. We would like to thank you for being supportive of homeschooling, and trying to help homeschoolers in the state by filing SD 2259, which would amend the compulsory attendance statute. For various reasons, however, we must register our opposition to the bill, and ask that you withdraw it immediately.

Firstly, the amendment to G.L. c. 76, Sec. 1 will not help homeschoolers who currently homeschool legally in Massachusetts, nor will it aid school officials in their oversight function. A reading of *Care and Protection of*

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Handout for Elected Officials

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Charles (399 Mass. 324, 37 Ed. Law Rep. 934) quickly demonstrates that the Massachusetts Supreme Judicial Court carefully considered the statute in question, and found that homeschooled children were included under the clause “otherwise instructed.” *Care and Protection of Charles*, which created the framework for homeschooling oversight in Massachusetts in 1987, rests on the statute as it currently stands, quoting the very section of the statute your bill seeks to amend: “General Laws c. 76, Sec. 1, requires that ‘every child between the minimum and maximum ages established for school attendance by the board of education... attend a public day school in [the] town [where the child resides] or some other day school approved by the school committee... but such attendance shall not be required... of a child who is being otherwise instructed in a manner approved in advance by the superintendent or the school committee...’” *Charles* thus acknowledges that homeschooling falls under the “otherwise instructed” category of the current G.L. Ch. 76, Sec. 1, later reinforcing this by saying, “Having concluded that the

approval process *under G.L. c. 76, Sec. 1* (our emphasis) is constitutionally permissible...”

Secondly, we are concerned about the potential problems this bill could create for both homeschoolers and superintendents. *Care and Protection of Charles* acknowledges both the state interest in the education of its citizenry, and the parental right to home educate children, striking a balance between these two factors. For over fifteen years courts and superintendents have successfully applied the guidelines set forth in the *Charles* decision. We are concerned that adding new language to Chapter 76 would open the door for a reinterpretation of *Charles* thereby creating confusion where none now exists, and making life more difficult for school officials and homeschoolers.

Another concern is that entering the phrase “home education” into law could lead to a need to define the term. The present situation, which ensures the parental right to homeschool, allows for the variety of educational styles homeschoolers embrace, protects the state’s interest in the education of its citizenry, and clearly includes homeschoolers under the “otherwise instructed” clause in G.L. 76, Sec. 1, is far preferable to the potential detrimental factors SD 2259 may lead to for homeschoolers and school officials.

We strongly urge you to withdraw this bill.

We would be very pleased to discuss this further with you or meet with you if you feel you need clarification for any of the points we have made. Please keep us posted on how you plan to proceed.

[end of letter]

In November, AHEM received a form letter reply (below) from Senator Lees regarding our letter of September 23 regarding his late filed bill SD 2259 “An Act Relative to Home Education.” It seems from this letter that his position has not changed—he does not plan to push the bill nor does he plan to withdraw it. AHEM drafted a response to the Senator, keeping lines of friendly communication open while letting him know that our concerns stand and we will continue to watch the bill lest it progress out of the Rules committee.

Letter from Senator Lees to Advocates for Home Education in Massachusetts:

November 11, 2003

Thank you for contacting my office regarding Senate Docket 2259, “An Act Relative to Home Education.” I appreciate learning your thoughts on this legislation.

Please know that I recognize your support for home schooling in Massachusetts and agree with you. I have many home schooled students in my district and understand the advantages associated with choosing

this form of education for some families. To that end, the intent of the bill I filed recently seeks to make that process easier for both students and administrators, by specifically providing a reference to home schooling in the Massachusetts General Laws, and striving to eliminate the need for certain time-consuming regulatory procedures.

I am aware of your concerns with respect to the potential negative effect that such a reference may have on home education programs and will be certain to keep your thoughts in mind should this bill be referred to committee for further consideration.

Thank you again for your input. Please do not hesitate to contact me should you have further questions on this or any other matter."

[end of letter]

Letter from Advocates for Home Education in Massachusetts to Senator Lees:

December 1, 2003

Dear Senator Lees:

On behalf of Advocates for Home Education in Massachusetts, I would like to thank you for your letter of November 11, 2003 regarding Senate Docket 2259, "An Act Relative to Home Education." I would also like to thank you for your consideration and time in responding to our concerns and inquiries regarding this proposed legislation. Both you and your staff have been very responsive in this regard.

Please know that we greatly appreciate your advocacy regarding homeschooling. While we acknowledge that the intent of the bill is to help homeschoolers, we will continue to monitor the status of Senate Docket 2259 because of our previously discussed concerns with the bill. We appreciate your consideration of our point of view and your willingness to consider our concerns should this bill be referred to committee for further consideration.

Thank you again for your efforts on behalf of homeschoolers. Please feel free to contact us if we can be of any assistance.

[end of letter]

AHEM representatives will maintain communication with Senator Lees's office. The bill remains with the Rules committee and has not moved from that committee. Because it was a late filed bill, it has several hurdles to clear before making its way to the Education committee. At this point, it seems unlikely that the bill will move from the Rules committee and will most likely die there. We will continue to closely monitor SD 2259, and should further action be warranted, we will quickly alert you.

Summary of data from Massachusetts town homeschool policy and practice database

Here are responses collated so far to Advocates for Home Education in Massachusetts's questionnaire about policy and practice in Massachusetts. AHEM collects information from homeschoolers both about official town policy (including the policies themselves), and how homeschooling actually works in towns in Massachusetts, according to homeschoolers. While the numbers we've collected so far are probably not statistically significant, they do draw an interesting picture of the way homeschooling works in general (pretty smoothly) and homeschoolers' personal experiences of dealing with school officials (overall, no major problems).

How much in advance of the school year do school officials ask that you submit homeschooling plans? What do you do? Please explain.

Most schools request that plans be filed before beginning to homeschool, or before the beginning of the school year. Some mention a specific amount of time prior, ranging from one week to one month before school starts. Most homeschoolers comply with this expectation, although there were no reports of problems if a plan was filed later than requested.

Do school officials ask to meet with homeschoolers? Do you comply? Please explain.

Of 48 respondents, 28 report that school officials do not ask for face-to-face meetings. In one case, a homeschooler asked for a meeting and got it. Eleven report that school officials ask for an initial meeting with homeschoolers when they file their first plan. Nine of these complied, two did not. There were no negative consequences reported by those who chose not to meet with school officials. Nine homeschoolers are asked to meet annually with school officials. Four of these choose to comply, five do not. There were no negative consequences reported for choosing not to meet.

Do school officials ask to visit your home? Do you comply? Please explain.

Of 48 respondents, 43 do not have school officials ask to visit their homes. Of the five that do, four said no and there were no negative consequences. The one

"Most home-schoolers report no difficulties in dealing with school officials."

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homeschooler that agreed to a home visit lives in the same town as three other homeschoolers who did not agree to a home visit, so it's safe to assume he or she could have also turned down the home visit if desired. There were no negative consequences for not agreeing to a home visit. Indeed, the 1998 Brunelle Supreme Court decision made it clear that home visits cannot be required as a condition of approval.

Do school officials ask for a schedule or number of hours on each subject? Do you comply? Please explain.

Of 42 respondents, 24 are not asked to supply a schedule. Of the 18 who are asked for a schedule, 13 satisfy the request by saying they will meet or exceed the 900/990 hours that the public schools cover. The remaining five supply a schedule. There were no negative consequences for those who chose to give the broader answer rather than a grid type schedule.

What form of assessment do you provide and how many times a year?

Of 43 respondents, the majority, 26, write a progress report. Of these most (16) write once a year. Six write twice a year. The remainder didn't specify frequency. Six respondents submit work samples or a portfolio. Five of the people who write progress reports indicated that the schools expected them to also submit work samples. (Please note that *Charles* requires homeschoolers to submit only one form of evaluation. A report alone should suffice, or work samples without any written narrative, should suffice.) One respondent sends a different form of evaluation each year. Five respondents choose to test. Five respondents submit no evaluation at all.

Do school officials provide you with a letter of approval?

Of 41 respondents, 29 receive an approval letter. Two get a letter if they ask for it. Ten do not receive a letter and don't ask for one.

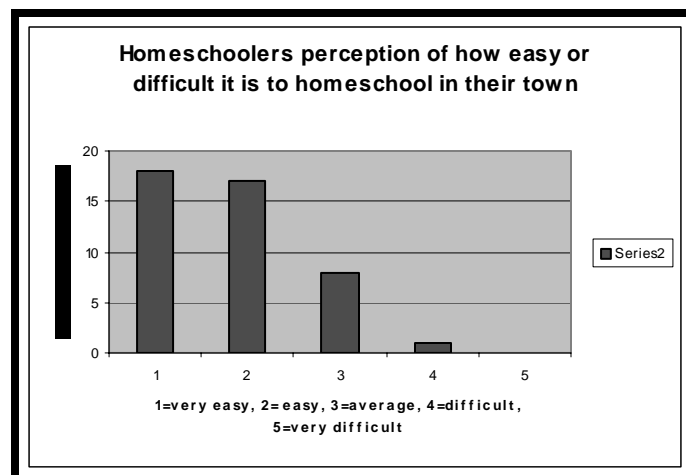
Do school officials allow homeschoolers to participate in school activities? Please be specific.

Of 28 respondents, 22 report that their school does allow them to participate in classes, sports, extracurricular activities, or some combination of these. Six report that their school does not allow them to participate in school functions at all.

"On a scale of 1 to 5, with 1 being very easy to deal with and 5 being very difficult, how would you rate your town's treatment of homeschoolers?"

Of 44 responses to the above question, 79% of respondents reported their town to be easy or very easy to deal with, 18% reported their town to be average, 2%

reported their town to be difficult, and no respondents considered their town to be very difficult to deal with.



In summary, based on the data we've obtained thus far things are going pretty smoothly for homeschoolers here in Massachusetts. Most homeschoolers report no difficulties in dealing with school officials. In cases where school officials ask for more than Charles allows, homeschoolers who are aware of their rights simply submit what Charles allows, and there are no negative repercussions for standing up for oneself in this way. Furthermore, standing up for your rights in this way strengthens the ability of other homeschoolers to do the same, and lessens the likelihood that school officials' demands will escalate.

We hope you will help us build the database further as the more responses we get, the clearer the picture of homeschooling in Massachusetts becomes. Please take a few minutes to fill out the questionnaire which you can find at www.ahem.info.

Report on DOE Draft Advisory

The DOE's advisory on homeschooling was scheduled to be revised over the summer, with prospective finalization and release in fall of 2003. However, as of September 2003 Liz Keliher has informed us that because of the workload at the Department of Education she has not put the necessary time into the advisory to release it this year. We will keep you informed of its progress.

Legislative Watch

AHEM is tracking a late filed bill by Representative Bradley (HD 4538) that would amend the compulsory attendance statute (Mass. G.L. Chapter 76). This is a House bill, that would, if passed, mandate compulsory attendance in the state from the ages of six to 18, instead of six to 16, as the statute now reads. This change has

the potential to adversely affect homeschoolers, since we would be required to report to our local school districts until our children reach the age of 18. The bill is still with the Clerk and will remain in the Clerk's Office until it is assigned a bill number. Because it is so difficult for lawmakers to track bills in the docket stage, we have been advised to wait until the bill is assigned a number before responding. We will keep you updated.

SB 278, a Senate bill that would amend M.G.L. Chapter 76 by extending the mandatory education requirement to age 18, is still with the Education committee. A public hearing took place in October. There are no plans for the bill to move at this time. We are in contact with the staff of the Education committee and will be notified if the bill moves from that committee. We will take appropriate action should it be necessary.

The National Scene . . .

Update on Federal Legislation

HR 3139

HR 3139, Youth Worker Protection Act, is a piece of federal legislation. The bill, if passed, will have ramifications for a large segment of homeschoolers. One of the functions of this piece of legislation is to restrict the number of hours a teenager may work.

Section 204 of HR 3139 deals with working hour restrictions for minors. School age minors will not be able to work during school hours. Young adults, ages 16 or 17, will not be able to work before 7:00 AM on any day; will be unable to work past 10:00 PM on a "school night," or 11:00 PM on any other day; will not be able to work more than four hours on a "school day," or eight hours on any other day; will not be able to work more than 20 hours during a week when "school" is in session; and cannot work more than six consecutive days.

Teenagers, ages 14 or 15, will not be able to work before 7:00 AM on any day; will not be able to work past 7:00 PM on any day except for summer vacation or school vacation; will not be able to work more than three hours on a "school day" or more than six hours on any other day; will be unable to work more than 15 hours during a week that school is in session, or more than 30 hours during any other week; and will be unable to work more than five consecutive days.

HR 3139 was introduced by Congressman Tom Lantos (CA) in September 2003. The bill has 40 co-sponsors, six of whom are Massachusetts legislators. The bill was referred to House subcommittees in October. Right now,

the bill is with the Committee on Education and the Workforce and the Workforce Protection Subcommittee. You can view the text of the bill by going to <http://thomas.loc.gov>. Type in HR 3139 and on the page that comes up, scroll down to "Working Hour Restrictions for Minors."

Because so many teenaged homeschoolers participate in apprenticeships and work opportunities, these restrictions could affect their educational and career opportunities. The bill would not change the way that homeschoolers report anything. The onus would be on employers not to hire teenagers for paid work for more hours or during hours restricted by the bill. The bill has the potential to affect paid apprenticeships, or jobs that homeschool teens may need to support their use of a car, (needed to get them to different "learning" type things). We do not think the bill would affect unpaid apprenticeships or volunteer work.

HR 3139 deals with more than just the issue of teenage work hour restrictions, so it is necessary to be specific about the part of the bill you are calling or writing to oppose, specifically, Section 204. Our suggestion is that you review Section 204, decide if you are opposed, and if so write in your own words what you are opposed to and why. How you choose to frame your argument is a personal decision. However we do think it would be best to avoid asking to put language into the bill that would exempt homeschoolers, as that introduces the issue of using "home school" in federal legislation, opening up its own can of worms.

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To find your congressman or congresswoman's local office address, please go to <http://www.house.gov>.

HR 2732/SB 1562

Thank you to all who took the time to write their representatives in Washington about this bill, which is sitting in six subcommittees and has very little chance of being passed in its current form. However, given that the bill has 80 cosponsors, it is likely or better than likely that some of its seven provisions will be inserted into other bills which have an excellent chance of passing into law. Carving up the bill may or may not eliminate the concern of having the phrase "home school" appear in federal legislation, as the individual sections pulled from the bill may or may not include that terminology. It does not void the larger concern of national homeschooling organizations who do not represent the vast majority of homeschoolers pushing for legislation which will affect all of us. AHM's philosophy is to strengthen the grassroots presence of homeschoolers, as our voices are strongest at the local and state level. AHM is doing its best to track HR2732/SB 1562 developments, and we will notify you as we learn of them.

For background on the issue of the federalization of homeschooling, and discussion about the individual provisions of HR 2732 (aka HoNDA), see <http://www.ahem.info/ArchivesHR2732.htm>

Meet Massachusetts Homeschoolers . . .

North Suburban Home Learners

by Leigh Vozzella

North Suburban Home Learners is an all inclusive group whose primary focus is providing educational and social opportunities for our children and support for ourselves as homeschooling parents. Recently, NSHL formed a publicity committee to help inform the media and the public about the positive contributions North Shore homeschoolers are offering to the area.

The publicity committee is hard at work to shed a positive light on homeschooling. Numerous projects are in the works to accomplish this goal. In November, a homeschool information night was organized by the committee and was open to those both new and/or considering homeschooling as well as family and friends looking to educate themselves about the choice of their loved one. The event was publicized in local newspapers as well as through posters in several communities. The event was such a success that a second panel discussion is planned for April 5, 2004.

NSHL's publicity committee is also in the process of putting together an informational video about homeschooling that will be distributed to local public libraries. The plan is for the video to include footage of the activities going on throughout NSHL such as community service projects, field trips, wonderful weekday events, parties, classes, as well as personal interviews with homeschooling families.

The committee's main goal for this year is to put homeschooling into a positive public spotlight as much as possible with the hope of countering as much of the bad press as possible that homeschooling has received recently. The press is being invited to attend as many events going on within NSHL as they would like to attend. Photos are being taken at various functions throughout the year and are being passed along to the local newspapers.

Clearing our throats . . .

Homeschooling and Child Abuse: A Response to Recent Media Reports

In recent months, homeschooling has received a double whammy in major media outlets. *CBS Evening News* presented a two-part segment titled "The Dark Side of Homeschooling" (Oct. 13 and 14, 2003). *The New York*

Times published an editorial headlined “Make Homeschooling Safe for Children” (Nov. 15, 2003). Articles and reports are appearing in smaller and less influential media venues, as well.

The CBS report presented cases of child abuse in homeschooling families, focusing on the murder-suicide of three children in North Carolina. *The Times* editorial highlighted the near starvation of adopted foster children in New Jersey. Both CBS and *The Times* called for greater regulation of homeschooling to protect children from potential abuse.

The media reports concluded that the abuse in these cases was connected to homeschooling, even though they offered no studies or data to show that homeschooled children are more likely to be abused than children attending school. The reports based their editorializing on the allegation that homeschooling families can hide abuse of children better than families whose children are enrolled in school. However, in both the North Carolina and New Jersey cases, the families were observed and reported on by community members, and the homes had been visited several times by social service agencies. Therefore, they were not hidden, and the assertion that families use homeschooling to hide abuse is an unproven theory. Since social services had already been notified by sources in the community, and had already observed the conditions in the homes on more than one occasion, it is highly unlikely that increased homeschooling regulation would have protected these children.

After examining the relevant issues and facts, a question remains. Why did reputable news organizations like CBS and *The Times*, in their editorializing about the issue, choose to exclude well-known and extremely pertinent facts about the cases in New Jersey and North Carolina? Had these relevant facts been included, the sensationalistic leap that these families were “hiding,” and the subsequent allegation that all homeschooling children may be in danger, could not have been made. Is the abuse non-issue a ruse to regulate homeschooling for other reasons? Where might this pressure for increased regulation be coming from, and where might it lead? We don't have answers to these questions now, but homeschoolers need to be

“First and foremost, home-schooling and child abuse are separate issues.”

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aware of them, keep abreast of the facts and the issues, and be prepared to respond.

We may encounter friends, neighbors, or family members concerned because of the media reports. At some point, we may face challenges to our homeschooling freedoms, and legislation or suggestions of legislation intended to address the issue of preventing child abusers from using homeschooling as a cover. Here are points to consider regarding what is sure to be an ongoing discussion in the media, our personal lives, and the legal arena.

Don't muddy the issues

First and foremost, homeschooling and child abuse are separate issues. Attempts to link the two lack any basis in fact. While there may be homeschooling parents who abuse their children, children are not abused because they are homeschooled. There is no de facto connection between child abuse and homeschooling.

Any regulation specifically focusing on preventing child abuse among homeschoolers would ignore the fact that child abuse occurs in the general population, not just in the homeschooling population. Parents of school children and preschoolers are not singled out for special observation. Background checks, home visits, and other invasions of privacy have been suggested as forms of regulation. Singling out a subset of parents for special observation on the basis of suspicion of abuse would be discriminatory. Mere suspicion does not constitute justification for increasing regulation across the board.

Whatever happened to innocent until proven guilty?

Homeschooling parents should not need to prove they are innocent of abusing their children as a condition for freely exercising their parental rights in education. The right to homeschool is recognized by every state in the country. Child abuse is a criminal act, and laws against it exist. Properly enforced, these laws should be sufficient to prosecute abusers and protect children. It may well be more productive and protective of children to examine the social service systems that failed the children in North Carolina and New Jersey than to increase homeschool regulation.

The highest courts in our nation have repeatedly shown regard for parental rights. *Wisconsin v. Yoder* declared in 1972 that the “primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.” *Wisconsin v. Yoder*, 406 U.S. 205 at 232. Our own Massachusetts Supreme Judicial Court upheld parental rights in *Care and Protection of Charles & others*, 399 Mass. 324 (1987), which stresses that state regulation cannot be excessive in order not to infringe on the liberty interests of the

parents, and may only exist to satisfy the state's interest in the education of its citizenry.

The vast majority of parents act in the best interest of their children, an assertion with which the US Supreme Court agrees. In *Parham v. J.R.*, 442 US 584 (1979), the Supreme Court stated, "That some parents 'may at times be acting against the interests of their children'...creates a basis for caution, but is hardly a reason to discard wholesale those pages of human experience that teach that parents generally do act in the... child's best interests... The statist notion that governmental power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to American tradition." Another Supreme Court case, *Troxel v. Granville*, 530 US 57 (2000) states: "There is a presumption that fit parents act in their children's best interests... *Parham v. J. R.*, 442 U. S. 584, 602"

Will knee-jerk calls for regulation address the alleged problem?

Regulation is not a panacea. It does not always solve the problems it intends to solve, and in this case there is no compelling reason to believe that it would address the concern of homeschoolers abusing their children. In order to be responsible to all taxpayers, cost effectiveness of the regulation would have to be determined before implementation. Excessive homeschooling regulation would inevitably represent a large cost to struggling school districts, without any guarantee of uncovering hidden cases of abuse. School officials mandated to investigate homeschoolers specifically to screen out abuse (as opposed to their current mandate to report suspected abuse of any child in the general population) would likely err on the side of caution, resulting in fruitless investigations of parents legitimately caring for their children, and incurring greater costs for overburdened social service agencies.

And what kinds of regulation could or would prevent abuse anyway? Most child abusers abuse only their own children, so a background check would be ineffective. Home visits to check for evidence of abuse would require school officials to act in a capacity for which they do not have the legal authority or training. There are many people with whom homeschoolers come in contact (physicians, nurses, clergy, police, etc.), who are mandated reporters in the state. And while teachers and school administrators are mandated reporters, too, this doesn't stop abuse of school children now, leaving no reason to believe that giving school officials increased oversight would prevent abuse of homeschooled children. If more regulation is meant to be "pro-child," but causes false allegations of child abuse, DSS

investigations, and other intrusions into family life, what is the cost to the children in dealing with the emotional stress involved?

The truism that hard cases make bad law applies here. Legislation based on hypothetical and rare abuse situations would be bad law, putting financial and other burdens on states, schools, and social service agencies, and violating the rights and privacy of homeschooling families.

What's really going on?

Given that logical, fair, and unbiased reporting could not have concluded that the North Carolina and New Jersey families were hidden, what might be the motivation behind the editorializing on CBS and in *The Times*? We can only speculate about this question, but doing so is important in trying to understand the larger picture involved in media coverage of calls for regulation. It is also inextricably linked to the important question of who benefits from increased regulation of homeschooling.

Teachers' unions have long opposed homeschooling, claiming that parents are not qualified to teach children, and that homeschoolers would not be properly socialized. Homeschooling has become a well-established, successful, and viable educational option. In the face of satisfactory standardized test scores, the welcoming of homeschooled students by colleges and universities, and the presence of homeschoolers in community organizations of every kind, these arguments fall flat. Since teachers' unions continue to oppose homeschooling, it's logical to imagine that they might seek new ways to criticize a movement that they perceive as a threat to a struggling public education system.

We also know that corporations peddling electronic grade school and high school curricula are creating publicly funded cyber charter schools that are being marketed to homeschoolers. Once enrolled in a program such as this, a homeschooler falls under the same regulatory requirements as a public schooler. Although the representatives of companies who manufacture electronic curricula say they favor decreased regulation as it applies to public schools (so they may have the freedom to market their wares in that arena), increased regulation for homeschoolers could help them sell their product by playing to the public's fear that homeschoolers need more oversight. To the general public unaware of the benefits of independent homeschooling, enrolling in a cyber charter school may appear as a more acceptable option by rendering families superficially more "visible" than families who

choose to create their own educational plans. Because cyber charter school users are receiving public monies, they are inevitably and by necessity more regulated than independent homeschoolers. It is possible that e-schools may increasingly be seen as a solution to the perceived problem of homeschool under-regulation, and that homeschoolers themselves may see these programs as a way to appear more “visible” and avoid suspicion. Thus, increased regulation of homeschooling could be a boon to the burgeoning e-school industry. It is prudent to keep this in mind and do what we can to ensure that business and financial interests don't capitalize on or benefit from media sensationalism at the expense of homeschoolers.

In imagining the unfolding of sensationalistic reporting focusing on the dangerous and dark sides of homeschooling, the phenomenon of media hype cannot be ignored. In their zeal to scoop a story and create news that sells, media outlets engage in less than exemplary journalism on a regular basis. The monkey see, monkey do concept plays into this as well, as media outlets often pick up stories from each other. It is possible that CBS simply pounced on what they knew they could twist into a juicy story, and other stations and newspapers followed suit.

What should concerned homeschoolers do about child abuse?

Any responsible citizen is naturally concerned about child abuse. Opposing increased homeschool regulation designed to screen for child abusers does not translate into a lack of concern for children. What occurred in North Carolina and New Jersey is tragic, but school officials, had they been involved, would only have reported the families to social services. Since social services had repeated dealings with both families, it seems quite clear that increased regulation would have done nothing to spare the children. Based on all available evidence, increased regulation of homeschoolers would not prevent child abuse. It is inadvisable based on all the reasons cited above.

The issue these media reports raise is a highly-charged one. The thought of children undergoing such heinous treatment understandably riles people. Given the emotional nature of the issue, it is especially vital that any response to the question of whether homeschooling should be regulated to prevent the potential abuse of children be carefully thought out. Knee jerk calls for regulation will do nothing to help children, and will only be detrimental to the homeschooling movement, which has shown itself to be a positive contribution to our society.

As homeschoolers concerned about our rights and about the welfare of children, what can we do? We can keep the distinction between homeschooling and child abuse clear. We can support existing laws designed to protect children. We can be vigilant about outside interests looking to capitalize on homeschooling. We can continue to put forth positive information about homeschooling to counteract the criticisms generated by its opponents. If we have definitive evidence that a family, homeschooling or not, is abusing their children, we can respond as any concerned citizen would. And we can continue to remind people that protecting our right to educate our children at home without excessive government intervention is not at odds with the general welfare of children, and is, in fact, an essential component in maintaining the values of freedom on which our society is based.

Law Made Easy . . .

Charles, in Brief

In Massachusetts, there is no statutory scheme that deals specifically with the approval of home education plans (statutes are laws passed by the legislative branch of government). While there are some statutes that concern all “school age” children, (e.g. the compulsory attendance statute), the approval of home education plans in Massachusetts is guided by the legal principles and guidelines set forth in the *Charles* decision (known as case law, since decided by the judicial branch of government). AHEM strongly recommends that anyone homeschooling their children, or interested in homeschooling their children, read *Charles* in its entirety. To pique your interest, we have prepared a summary of the *Charles* case, detailing those points most relevant to our concerns as homeschoolers.

The issue before the *Charles* court was how to accommodate the rights of parents under the US and Massachusetts Constitutions with the governmental interest in the education of its citizens.

In August 1985, the *Charles* parents notified the Canton school officials that they would be homeschooling their three children. In October, the parents presented their proposal at a school committee meeting. School committee members voiced their concerns about certain aspects of the proposal, including the parents’ objection to school department testing and evaluation of the children’s progress. The committee asked the parents to prepare a more detailed proposal since they hoped to make a decision at the October school committee meeting.

The father met with the school superintendent prior to the October school committee meeting. At that time, he refused to detail the educational background of himself and his wife. He refused to provide the school department with the number of hours and days that would be devoted to instruction. He also refused to allow a home visit by school officials. The father did agree to provide copies of the tables of contents of the curriculum materials when they arrived, and did state his preference for using a particular standardized test.

The parents declined to attend the October school committee meeting, asserting they had no additional information for the school committee. The school committee prepared a memorandum of agreement, and sent this to the parents, saying if the parents signed the memorandum, it would facilitate the school committee's consideration of their proposal. The parents returned an unsigned edited version of the agreement.

At the November school committee meeting, the members voted to accept the recommendation of the school superintendent that the parents be denied permission to homeschool their children for the following reasons:

"...the approval of a home school proposal must not be conditioned on requirements that are not essential to the State's interest..."

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1. Superintendent had not been given reason to believe the parents were competent to teach their children.
2. The parents had indicated that their children would be spending less time on formal instruction than the public schools.
3. The parents objected to the school's efforts to monitor/observe the instructional methods, and periodically test the children to determine whether they were making reasonable progress.

The school department initiated truancy proceedings, and filed a petition for care and protection of the children. In May 1986 a judge found that the children were in need of care and protection with respect to educational care, and ordered the children to school. The parents retained both legal and physical custody of the children. The parents appealed the judge's order to the Appeals Court, and the Supreme Judicial Court took the case on its own motion. While the appeal was pending, the lower court's decision requiring the children to go to

school was stayed, and the children were NOT sent to school.

The Supreme Judicial Court heard the case, and in March 1987 decided the following:

1. The school committee was the proper party in maintaining a care and protection proceeding.
2. A school committee's process of approval of a home education plan is to be governed by the same body of law as the approval of a private school. (Mass. General Laws, Chapter 76, section 1) "School committees shall approve a private school when satisfied that the instruction in all the studies required by law equal in thoroughness and efficiency, that in the public school in the same town."
3. Approval must be obtained in advance, i.e. prior to removal of the child(ren) from school. However, the court goes on to say that if the parents commence the education of their children at home in the face of the school committee's refusal to approve the parents' home school proposal, the burden of proof shifts to the school committee to show that "the instruction outlined in the proposal fails to equal in thoroughness and efficiency, and in the progress made therein, that in the public schools in the same town."
4. The court recognized certain factors that may be considered in determining whether to approve a home education plan. The four factors are:
 - a) Proposed curriculum and number of hours of instruction in each of the proposed subjects, noting that the public schools are required to operate for a minimum of 180 days.
 - b) Competency of parents to teach their children. The school officials may inquire as to academic credentials and other qualifications. The court noted that parents need not be certified, nor must they have college or advanced academic degrees.
 - c) Superintendent or school committee may have access to textbooks, workbooks, and other instructional aids, and to lesson plans and teaching manuals, to determine the types of subjects to be taught, and the grade level of instruction for comparison purposes with the curriculum of the public schools. They may not use this access to dictate the manner in which the subjects will be taught.
 - d) Superintendent or school committee may properly require periodic evaluation to ensure educational progress and attainment of minimum standards. Means of evaluating progress may be

standardized testing, periodic progress reports, or dated work samples. The *Charles* court, in their decision, required the parents and school officials to work together in trying to reach agreement on the issues in dispute. Based on this, it is likely that the court preference would be that parents and school officials work to reach an agreement on the method of evaluation to be used. If no agreement can be reached, it may be that school officials could require standardized testing as a method for evaluating progress—although no court has made a final decision on this point. School officials may not require home visits as a condition for approval (later decided by the *Brunelle* court).

The Supreme Judicial Court vacated the lower court decision and required all parties to proceed expeditiously in a serious effort to resolve the matter by agreement, now having the legal principles and guidelines set forth in *Charles* to guide them. It is notable that the court said, “We conclude that the interests of all will be best served [if the parties] proceed expeditiously in a serious effort to resolve the matter by agreement.”

So, in addressing the basic issue before the court, i.e. how to reconcile the rights of parents under the US and Massachusetts Constitutions with the governmental interest in the education of its citizens, the Court seemed to say that while parents of school age children have the basic constitutional right to educate their children, the school committee of the town in which they reside could protect the State’s interest in the education of its citizens by enforcing, through the approval process, reasonable requirements. However, the Court said, “Having concluded that the approval process, under Massachusetts General Laws, Chapter 76, section 1, is constitutionally permissible, we caution the superintendent or school committee that the approval of a home school proposal must not be conditioned on requirements that are not essential to the State’s interest in ensuring that ‘all children shall be educated.’”

The approval of home education plans in Massachusetts continues to be guided by the principles set forth in this decision. The “equal in thoroughness and efficiency” standard is still used by school officials in evaluating plans. The court

sanctioned factors that may be considered by superintendents or school committees in evaluating a home education plan continue to be the only factors school officials may take into account when evaluating a home ed plan.

In 1998, the *Brunelle* case was brought before the court. Although the *Brunelle* court considered the narrow issue of home visits as a condition for approval of home education plans, the court made other thoughtful statements about homeschooling that are of interest. We will summarize the *Brunelle* decision in the next edition of this newsletter.

Around AHEM . . .

Faces at AHEM

Annette Dörnhofer lives in Arlington with her husband, Hans Hofmann, and their three children (ten, eight and five years old). A native of Germany, she has lived in the US for almost seven years. Annette has a degree in biology and worked in bookstores for years. While living in California she became a Doula. After moving to Massachusetts two and a half years ago and sending her children to public school for one year, she had enough of it and has been homeschooling since. She has volunteered at Waltham Fields Community Farm and is an experienced drummer and belly dancer. Annette keeps on top of entries to the policy and practice database. Keep Annette busy! Fill out the questionnaire at www.AHEM.info or send a SASE to PO Box 1307, Arlington, MA 02474 and we will send you a questionnaire.

State House Visit

Advocates for Home Education in Massachusetts sponsored a field trip to the Massachusetts State House on October 16, 2003. We met with Rep. Alice Wolf, a member of the Education, Arts and Humanities Committee.

The next State House visit is planned for Thursday, January 22, 2004. Children are welcome. Our tour of the State House will begin at 10:00 AM; we will meet in Doric Hall (2nd floor of State House) at 9:45 AM. We are arranging a time to meet Rep. St. Fleur (Boston), a member of the Joint committee on Education, Arts and Humanities. If the legislature is in session, we will be able to sit in on that session, which usually begins at 11:00 AM.

Anyone attending may also contact their local representative and arrange a time drop in and meet her/him. Please go to <http://www.state.ma.us/legis/citytown.htm> for information about contacting your local legislator. A good overview of the lawmaking process is available at <http://www.state.ma.us/legis/lawmkng.htm>.

Please email us at info@AHEM.info or call Cheryl Pinto (978-532-5778) to register for this trip.

See the information sheet (insert or available at www.AHEM.info) that we left with Rep. Wolf. Feel free to make copies of it to give to your legislator, or anyone else you would like to share it with.

Friends of AHEM are informed of these visits (as well as other field trips and events) first, before the rest of the homeschooling population. Space permitting, we then open the trips up to Massachusetts support groups. To become a Friend of AHEM, send your name and address to AHEM, PO Box 1307, Arlington, MA 02474 or email to info@AHEM.info.

AHEM Website

The new AHEM website has been launched! It is packed with useful information, including help for homeschooling in Massachusetts, what AHEM is working on and how to get involved at various levels, updates on current issues, a listing of events, support groups, AHEM contacts, etc. It's brand new, always in process, and we very much appreciate any feedback you have, including typos, broken links, or other suggestions for improvement. Please check it out. We are excited at the possibilities for better communication and connection that the site affords. Our hope is that you will decide to bookmark it and tell your friends about it! <http://www.ahem.info/>

AHEM Conference

AHEM's conference, Whole Education Without Schooling, will take place on the afternoon of Saturday, May 15, 2004, in West Medford, MA. If you are a Friend of AHEM, you will be sent registration information by US mail or email before the general public. Information will also be available on the Events page of the AHEM website www.AHEM.info. We look forward to an inspirational afternoon with other Massachusetts homeschoolers.

Become a Friend of AHEM

Advocates for Home Education in Massachusetts is an inclusive, grassroots, volunteer-run organization that is not beholden to any other organization, or to any prospect other than the right of individual families to educate their children as they please.

AHEM believes that the best defense of homeschooling rights is an informed and active homeschooling population. It is not hard to homeschool in Massachusetts and it is not in homeschoolers' best interest to live in fear of authorities. AHEM intends to make it transparent to Massachusetts homeschoolers how they can get involved and empowered as part of a network of Massachusetts homeschoolers committed to protecting the rights of individual families to homeschool today and in the future.

Becoming a Friend of AHEM is an easy step to becoming proactive. Even if your involvement is simply to stay informed, that strengthens all of us.

Friends of AHEM keep abreast of legislative and other issues that affect Massachusetts homeschoolers via an announcement only email list or this newsletter. Friends of AHEM with email get first notice of AHEM events, field trips, and get-togethers.

To become a Friend of AHEM and receive email updates, send your name, town, zip code and email address to info@AHEM.info. To become a Friend of AHEM and receive *AHEM News* by US mail instead of email updates, send your name and address to AHEM, PO Box 1307, Arlington, MA 02474. SASEs are appreciated.

AHEM has Friends in 11 out of 14 Massachusetts counties! To become a Friend of AHEM, send your name and address to AHEM, PO Box 1307, Arlington, MA 02474 or email info@AHEM.info. It's free!

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