



# Selecting Children's Workers

by Richard Hammar

One of the most significant legal risks facing churches today is negligent selection. The term negligence means *carelessness or a failure to exercise reasonable care*. Negligent selection, then, means carelessness or a failure to exercise reasonable care in the selection of a worker.

Negligent selection can occur in several contexts, including the selection of drivers and bookkeepers. But the most significant risk occurs in the selection of employees and volunteers who will be working with minors. Many churches have been sued on the basis of negligent selection because an inadequately screened worker sexually molested a child.

Remarkably, despite all the media publicity that has been devoted to this issue over the past several years, only one-third of the churches do any screening of volunteers who will work with children. This means that a staggering number of churches are exposing innocent lives to a lifetime of traumatization, and the church itself to potentially astronomical jury verdicts that may not be fully covered by the church's liability insurance policy.

There is good news, however. Church leaders can take relatively simple yet effective steps to significantly reduce the likelihood of such an incident occurring. Here are some precautions to consider:

## 1. A Written Application Form

At a minimum, the form should

ask for the applicant's name and address, the names of other youth-serving organizations in which the applicant has worked as an employee or volunteer, a full explanation of any prior criminal convictions, and the names of two or more references.

## 2. Contact References

Contact each person and organization listed as a reference in the application, and request a reference addressing the suitability of the applicant to work with minors. The best references are those who have observed the applicant working with minors.

## 3. Criminal Records Checks

No court has found a church liable for a worker's sexual misconduct on the ground that it failed to conduct a criminal records check, and so relatively few churches use them. But such checks will further reduce a church's risk of being found liable for the negligent selection of children's workers.

## 4. Interviews.

Persons being considered for a church position should be interviewed. This will provide the church with an opportunity to inquire into each applicant's background and make a determination as to each person's suitability for the position under consideration.

## 5. The Six-Month Rule

Adopt a policy restricting eligibility for any volunteer position involving the custody or supervision of minors to those persons who have been members in good

standing of the church for a minimum period of time, such as six months. Such a policy gives the church an additional opportunity to evaluate applicants, and will help to repel persons seeking immediate access to potential victims.

## 6. Limit Second Chances

Church leaders often "err on the side of mercy" when making employment decisions. This attitude can contribute to a negligent selection claim—if a church gives an applicant a "second chance" despite knowledge of prior sexual misconduct, and the conduct is repeated. What the church views as mercy may be viewed as negligence or even gross negligence by a jury.

## Legal Information Available

Richard Hammar has published a number of resources that assist churches in screening workers. These include kits on the selection and screening of ministers, employees, and volunteers: *Reducing the Risk of Child Sexual Abuse in Your Church Resource Kit* and *Four-Hour Legal Training Kit for Church Boards* (audio tapes that orient church board members to critical legal and tax issues). All of these resources are available from Christian Ministry Resources, 1-800-222-1840.

