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# S.C. case looks on child obesity as child abuse. But is it?

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Alexander Draper was removed from his mother's care because he weighed 555 pounds at age 14.

By Ron Barnett, USA TODAY

Jeri Gray was doing all she could to help her son lose weight, her attorney says. But something had gone terribly wrong for the boy to hit the 555-pound mark by age 14.

Authorities in South Carolina say that what went wrong was Gray's care and feeding of her son, Alexander Draper. Gray, 49, of Travelers Rest, S.C., was arrested in June and charged with criminal neglect. Alexander is now in foster care.

The case has attracted national attention. With childhood obesity on the rise across the USA, according to the Centers for Disease Control and Prevention, Gray's attorney says it could open the door to more criminal action against parents whose children have become dangerously overweight.

"If she's found guilty on those criminal charges, you have set a precedent that opens Pandora's box," Grant Varner says. "Where do you go next?"

State courts in Texas, Pennsylvania, New York, New Mexico, Indiana and California have grappled with the question in recent years, according to a 2008 report published by the Child Welfare League of America.

In all of those cases, except the one in California, courts expanded their state's legal definition of medical neglect to include morbid obesity and ruled that the children were victims of neglect, the report says. Criminal charges were filed only in the California and Indiana cases, but the parents weren't sentenced to jail time in either.

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### What the court can order

The New York case in 2007 involved an adolescent girl who weighed 261 pounds, the report says. The court ordered nutritional counseling, cooking classes and gym workouts.

Criminal charges should be a last resort, says Linda Spears, vice president of policy and public affairs for the Child Welfare League of America.

"I think I would draw the line at a place where there are serious health consequences for the child and efforts to work with the family have repeatedly failed," she says.

What's more often needed is a structured plan of action that's accountable to a court, she says.

Most of the time, the health problems tied to childhood obesity don't become chronic until adulthood, which makes it difficult to charge parents with child abuse, Spears says.

In the South Carolina case, Gray followed nutritional guidelines set for her son by the state Department of Social Services, Varner says, but Alexander apparently got other food on his own while not under his mother's supervision.

The boy has been placed in foster care, and Varner says he hasn't been allowed to speak to him. Gray has signed an agreement with a film documentary company for exclusive rights to her story and couldn't comment for this article, Varner says.

"There's a strong likelihood that this kid is going to school and could eat whatever he wanted to at school, because you've got friends who will help him buy food or will give him their leftovers," Varner says. "The big question is: What is this kid doing when he's not in Mom's care, custody and control?"

Greenville County School District spokesman Oby Lyles declined to comment.

"This is not a case of a mother force-feeding a child," Varner says. "If she had been holding him down and force-feeding him, sure, I can understand. But she doesn't have the means to do it. She doesn't have the money to buy the food to do it."

### Slippery slope ahead?

The case could have ramifications beyond parental control over obesity to other eating disorders, and even other behaviors not related to weight, Varner says.

"What about the parents of every 16-year-old in Beverly Hills who's too thin? Are they going to start arresting parents because their child is too thin?" he asks.

Jolene Puffer, a personal trainer in Asheville, N.C., says the problem often is parents "loving their kids to death," especially in low-income families where food is one of the few things they can afford to give their children.

But school officials and doctors are "not sounding the alarm" when they should, she says.

Puffer took a local family on as a volunteer project and helped a 16-year-old boy who weighed 434 pounds lose 110 pounds, while his mother lost more than 80 and his sister shed nearly 50.

A social services counselor had recommended that the boy apply for Medicare, which Puffer says could have set him up

### TOP TREATS

Top snacks consumed by children under 6:

In 1987	In 2007
1. Cookies	Fruit
2. Fruit	Cookies
3. Milk	Milk
4. Juice	Crackers
5. Candy	Juice
6. Carbonated soft drinks	Popcorn
7. Ice cream	Candy
8. Crackers	Ice cream
9. Cake	Chips
10. Chips	Fruit rolls/bars/pieces

### Change of taste

The five foods/beverages that have increased the most in the snack diet of young children today compared with young children 20 years ago:

1. Fruit rolls/bars/pieces
2. Yogurt
3. Crackers
4. Bars
5. Bottled water

The five foods/beverages that have decreased the most in the snack diet of young children today compared with young children 20 years ago:

1. Carbonated soft drinks
2. Ice cream
3. Candy

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- 4. Cake
- 5. Fruit juice

Source: NPD Group

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as a lifelong disability case.

States have been taking steps to combat childhood obesity, according to a report released this month by the Trust for America's Health and the Robert Wood Johnson Foundation.

For example, 20 states have passed requirements for schools to do body mass index (BMI) screenings or other weight-related tests of children and adolescents, up from four states five years ago, says the report, title "F as in Fat: How Obesity Policies are Failing in America."

But it also says that, although every state requires physical education in schools, the requirements "are often limited, not enforced, or do not meet adequate quality standards."

The same report says 30% of children in 30 states ages 10 to 17 are overweight or obese, with the rate hitting a high of 44.4% in Mississippi.

The CDC says the number of obese children ages 6 to 11 more than doubled in the past 20 years, while the rate for adolescents more than tripled.

A comparison to drugs

Ron Jones, a corporate wellness expert based in Atlanta and Los Angeles, uses the phrase "child obesity is child abuse" in his promotional materials and says the nation has turned its head the other way when it comes to accepting that concept.

"If you gave your child a drug, you'd be held in the court. But if you kill them with food, that seems to be acceptable," he says.

The difficulty with prosecuting such cases is that most state laws require that the child's health be in imminent danger for criminal charges to be filed, and the parent must be capable of helping the child but hasn't taken the necessary action, says Richard Balnave, a professor at the University of Virginia School of Law.

Obesity, although potentially dangerous, does not generally put a child in imminent danger, he says.

Supreme Court rulings have recognized the right of parents to raise their children how they see fit, Balnave says, but not to the point that the child's health is endangered.

The arrest warrant in the Gray case alleges that her son's weight was "serious and threatening to his health" and that she had placed him "at an unreasonable risk of harm."

Virginia Williamson, counsel for the South Carolina Department of Social Services, says her agency sought custody of Alexander "because of information from health care providers that he was at risk of serious harm because his mother was not meeting his medical needs."

The department "would not take action based on a child's weight alone," she says.

Gray failed to appear at a family court hearing in which her child was to be turned over to foster care, according to a warrant issued in May.

Police later found her with the boy in Baltimore County, Md., and took her back to South Carolina, where she was released on a \$50,000 bond, her attorney says.

Barnett reports for The Greenville (S.C.)

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OregonKim (0 friends, [send message](#)) wrote: 7/27/2009 6:03:57 PM

Ok, this is a little off topic, but I have to respond to GoVegan.....My kids eat meat. I eat meat. We also eat lots of veggies with out meat and guess what? The only one with fat on them is me, and that only started accumulating when I upped my college credit hours to 12 on top of my more than full time job. It's not the meat that's to blame, it's the activity level. My kids and I raise our meat, pigs and cattle. We build fences and buck hay and muck out stalls. We pull weeds, hoe the garden and pick green beans. We ride horses and climb trees and play tag, and soccer and run through the sprinkler. We mow lawns and prune trees. My kids don't have video games, cell phones, computers or even satellite TV. We work our butts off and play our butts off and the meat doesn't affect us at all. According to my doctor, I'm as healthy as a horse. Humans are omnivores. period.