

SENATE BILL REPORT

SB 6295

As of February 6, 2014

Title: An act relating to withholding medical treatment in favor of faith-based or metaphysical healing efforts.

Brief Description: Regarding the withholding of medical treatment in favor of faith-based or metaphysical healing efforts.

Sponsors: Senators Mullet, Tom, Kohl-Welles and Darneille.

Brief History:

Committee Activity: Human Services & Corrections: 2/06/14.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Shani Bauer (786-7468)

Background: Criminal mistreatment is generally defined in Chapter 9A.42 RCW as when a parent of a child or other person who has assumed the responsibility to provide for a child or dependent person causes substantial bodily harm or creates an imminent risk of death or substantial bodily harm to a child or dependent person by withholding the basic necessities of life. The basic necessities of life are defined as food, water, shelter, clothing, and medically necessary health care.

When certain persons have reasonable cause to believe that a child has suffered abuse or neglect, they must report the incident to either law enforcement or the Department of Social and Health Services. Among others, this group of mandatory reporters includes physicians, nurses, law enforcement officers, school employees, counselors, psychologists, and child care providers. Abuse of a child is defined to include the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. Negligent treatment or maltreatment may include an act, or failure to act, that evidences a serious disregard of consequences that present a clear and present danger to a child's health, welfare, or safety.

Christian Science is perhaps best known for its emphasis on spiritual healing. Several court cases over the years have prosecuted practicing Christian Scientists who have refused medical care for their children leading to the child's death. A Christian Science practitioner is not medically trained, but rather is accredited by the church after an application process and class instruction.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed First Substitute): Legislative intent language is removed that a person who, in good faith, is furnished Christian Science treatment by a duly accredited Christian Science practitioner in lieu of medical care is not considered deprived of medically necessary health care or abandoned. Instead, the language states that nothing in this act is to be interpreted as a legislative disapproval of Christian Science treatment. The definition of a practitioner of healing arts is amended to remove language that a person receiving treatment from a Christian Science practitioner is not considered, for that reason alone, to be a neglected person.

Cultural and religious child-rearing practices and beliefs that differ from general community standards do not, in and of themselves, constitute negligent treatment or maltreatment or create a duty to report unless there is reasonable cause to believe the practices and beliefs pose a danger to the child's health, welfare, or safety.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The current statute gives Christian Science different treatment than any other religion under Washington statutes. The bill would put all religions on the same par. There are certainly other forms of religion that assist with healing. If a situation gets to the point of a dire medical situation, the person should be required to get appropriate care for their child. There was a recent case in Okanogan County where medical care was withheld due to religious beliefs, although not Christian Science beliefs. This statute came up in discussing jury instructions. If the case had addressed to Christian Science parents, the jury instructions conceivably would have been different for the case. This points to the inequity of referencing a specific religion in statute. The First Amendment of the Constitution addresses religious beliefs and additional language is not needed in statute. The additional language in the reporting statute will provide protections for children and families. Children whose health or safety is threatened should seek medical treatment and have the right to be protected under the laws of this state. Current law allows one church to withhold medical treatment from a child. This bill would remove those provisions and ensure that all parents have the duty to seek medical care. A child should be assessed based on medical standards and not by religious beliefs. The provision in the reporting statute sends a clear message that all parents have a duty to report children for medical care despite their religious beliefs. We know of seven Washington children who have died because of religious beliefs and a lack of medical care.

Persons Testifying: PRO: Tom McBride, WA Assn. of Prosecuting Attorneys; John Merrell, Children's Healthcare Is A Legal Duty; Lisa Wahl, citizen.