

SENATE BILL REPORT

SB 5749

As Passed Senate, February 13, 2020

Title: An act relating to faith-based exemptions regarding criminal mistreatment of children and vulnerable adults.

Brief Description: Concerning faith-based exemptions regarding criminal mistreatment of children and vulnerable adults.

Sponsors: Senators Mullet, Van De Wege and Kuderer.

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 2/20/19 [DP].

Floor Activity:

Passed Senate: 2/13/20, 46-0.

Brief Summary of Bill

- Clarifies health care decisions made in reliance on faith-based practices do not in and of themselves constitute negligent treatment or maltreatment unless any such decision poses a clear and present danger to the health, welfare, or safety of the child.
- Strikes language stating a person receiving treatment from a Christian Science practitioner is not considered, for that reason alone, to be a neglected person.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: Do pass.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Alison Mendiola (786-7488)

Background: Criminal mistreatment is generally defined in statute as when a parent or guardian of 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

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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 a child has suffered abuse or neglect, they must report the incident to either law enforcement or the Department of Children, Youth, and Families. 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 presenting a clear and present danger to a child's health, welfare, or safety. A person who is being provided Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person.

Christian Science engages in spiritual healing. A Christian Science practitioner is not medically trained, but rather is accredited by the church after an application process and class instruction.

Summary of Bill: Legislative intent language is removed regarding 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.

Under the definition of practitioner of healing arts, language indicating a person receiving treatment from a Christian Science practitioner is not considered for that reason alone to be a neglected person, is struck.

Health care decisions made in reliance on faith-based practices do not in and of themselves constitute negligent treatment or maltreatment unless any such decisions poses a clear and present danger to the health, welfare, or safety of the child.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The purpose of this bill is to address the call-out for a specific religion and replace it with more general language. The current law is problematic by naming a specific religion in statute, which gives rise to equal protection issues. First, there is a special standard of care for a specific religion where there other religions that may have similar approaches to medical care and treats families differently if they have another faith or no faith. This bill creates the same standard of care for all parents, regardless of religion. The Christian Science Church is supportive of this language as it still provides for the practices of Christian Science within child protection laws.

CON: The Constitution protects freedom of religion. If you strike references to Christian Science, it effects Christian Science practitioners and the parents that rely on this approach to healing. These practitioners are mandated reporters which is why the attorney general wanted this language in the first instance.

OTHER: This language seems vague so it is unclear it will protect children. Deference should be given to parents but there does need to be limits such as not allowing a parent to prevent a child's blood transfusion if that transfusion would save a child's life.

Persons Testifying: PRO: Senator Mark Mullet, Prime Sponsor; Seth Dawson, Children's Advocacy Centers of Washington; Ken Bemis, Christian Science Committee on Publication.

CON: Janet McConnell, Christian Science Practitioner.

OTHER: Rebecca Faust.

Persons Signed In To Testify But Not Testifying: No one.