

HOUSE BILL REPORT

ESHB 1048

As Passed House:
February 14, 2022

Title: An act relating to the removal of specific religious references regarding the criminal mistreatment of children and vulnerable adults from a statute.

Brief Description: Concerning the removal of specific religious references regarding the criminal mistreatment of children and vulnerable adults from a statute.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Wicks, Thai and Gregerson).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/18/22, 1/21/22 [DPS].

Floor Activity:

Passed House: 2/14/22, 92-6.

Brief Summary of Engrossed Substitute Bill

- Removes the references to Christian Science practitioners with regard to the criminal mistreatment of children and vulnerable adults.
- Modifies the definition of "negligent treatment or maltreatment" to clarify that health care decisions made in reliance on faith-based practices do not constitute negligent treatment or maltreatment unless such decision poses a clear and present danger to the child.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Hansen, Chair; Simmons, Vice Chair; Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham,

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

Assistant Ranking Minority Member; Abbarno, Davis, Entenman, Goodman, Kirby, Klippert, Orwall, Peterson, Thai, Valdez, Walen and Ybarra.

Staff: Matt Sterling (786-7289).

Background:

Criminal Mistreatment and Abandonment of a Dependent Person.

In general a parent or person entrusted with the physical custody of a child or other dependent person is guilty of criminal mistreatment if the individual creates a certain degree of risk of death or bodily harm to the child or dependent person, or causes injury or harm to the child or dependent person by withholding any of the basic necessities of life. "Basic necessities of life" is defined as food, water, shelter, clothing, and medically necessary health care, including, but not limited to, health-related treatment or activities, hygiene, oxygen, and medication.

Criminal mistreatment penalties range from a first degree offense, which is a class B felony, to a fourth degree offense, which is a misdemeanor. Legislative intent incorporated into the criminal mistreatment statutes state that a person who receives treatment by a duly accredited Christian Science practitioner is not considered deprived of medically necessary health care or abandoned.

Abuse of Children.

Certain persons are required to report to law enforcement or the Department of Social and Health Services when they have reasonable cause to believe a child has suffered abuse or neglect. The list of persons required to report includes practitioners, law enforcement and other criminal justice employees, school personnel, various health care employees, and others. "Practitioners" as defined in statute include doctors, nurses, other health care providers, and duly accredited Christian Science practitioners.

"Abuse or neglect" means sexual abuse or exploitation, other injury to the child, or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. "Negligent treatment or maltreatment" is the failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety.

A child does not have to suffer actual damage or physical or emotional harm to be in circumstances that create a clear and present danger to the child's health, welfare, or safety. A person who is furnished Christian Science treatment by a duly accredited Christian Science practitioner is not considered, for that reason alone, a neglected person.

Christian Science Practitioner.

A Christian Science practitioner is an individual who has been accredited as a practitioner

and is listed or eligible to be listed in the Christian Science Journal at the time the service is provided. An individual who attains this accreditation has demonstrated results of healing through faith and prayer rather than by medical treatment.

Summary of Engrossed Substitute Bill:

The references to Christian Science practitioners are removed from the criminal mistreatment and child abuse statutes.

The definition of "negligent treatment or maltreatment" is modified to clarify that health care decisions made in reliance on faith-based practices do not constitute negligent treatment or maltreatment unless such decision poses a clear and present danger to the health, welfare, or safety of the child.

Technical corrections are made to update an RCW section (RCW 26.44.020) that was amended by legislation enacted in 2021.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill resolves a constitutional issue created by an exception in the law for just one religion. Government should not give special privileges to religions or treat religions differently. The bill does not prevent people from practicing their religion. The bill makes it clear that when there is a clear and present danger to a child, there are grounds to ensure the welfare of the child.

An important value of the Christian Science faith involves the practice of spiritual healing, and the legislation makes room for this practice in a way that is consistent with the state's child protection laws.

(Opposed) None.

Persons Testifying: Representative Emily Wicks, prime sponsor; Bob Cooper, National Association of Social Workers Washington Chapter; and Lance Matteson, Christian Science Committee on Publication.

Persons Signed In To Testify But Not Testifying: None.