

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 3 - 0 - 2

Yeas: Dingfelder, Kruse, Prozanski

Nays: 0

Exc.: Bonamici, Whitsett

Prepared By: Aaron Knott, Counsel

Meeting Dates: 4/26, 5/11

WHAT THE MEASURE DOES: Eliminates reliance on spiritual treatment as a defense to certain crimes in which the victim is under 18 years of age. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Equivalent defenses in other jurisdictions
- Constitutionality of eliminating the defense
- Clackamas County cases involving the use of this defense

EFFECT OF COMMITTEE AMENDMENT: Adds emergency clause.

BACKGROUND: ORS 163.115 Sec. 1(c)(B) defines homicide to include death caused “by abuse when a person, recklessly under circumstances manifesting extreme indifference to the value of human life, causes the death of a child under 14 years of age or a dependent person, as defined in ORS 163.205, and the death is caused by neglect or maltreatment. ORS 163.115 Sec. 1(e)(4) makes an affirmative defense when the child or victim is a dependent person and was under care or treatment solely by spiritual means pursuant to the religious beliefs or practices of the child or dependent person or the parent or guardian of the child or dependent person. House Bill 2721 A eliminates the affirmative defense in these cases as it applies to minor children under the age of 18 years old.

In 1999 the legislature passed House Bill 2494, which eliminated the spiritual healing defense against charges of second-degree manslaughter, first- and second-degree criminal mistreatment and nonpayment of child support.