

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action: Do Pass
Vote: 10 - 0 - 0
Yeas: Garrett, Hicks, Nolan, Olson, Schaufler, Tomei, Wand, Whisnant, Barker, Krieger
Nays: 0
Exc.: 0
Prepared By: Aaron Knott, Counsel
Meeting Dates: 2/21, 3/3

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.

ISSUES DISCUSSED:

- Clackamas County cases involving the use of this defense
- The limits of the Constitutional protections for the free practice of religion
- Previous legislation eliminating this defense in cases of manslaughter and criminal mistreatment

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 163.115(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(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. This bill would eliminate the affirmative defense in these cases as it applies to minor children under the age of 18 years old.

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