

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact**

**Action:** Do Pass as Amended and Be Printed Engrossed

**Vote:** 4 - 3 - 0

**Yeas:** Gianella, Simmons, Sunseri, Mannix

**Nays:** Bowman, Hansen, Prozanski

**Exc.:** 0

**Prepared By:** John Horton, Counsel

**Meeting Dates:** 4/27

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**WHAT THE BILL DOES:** Eliminates spiritual treatment defense to criminal mistreatment and criminal nonsupport. Eliminates spiritual treatment exception from “child abuse” definition. Allows juvenile court to exercise jurisdiction over child when spiritual treatment may endanger child’s welfare.

**EFFECT OF COMMITTEE AMENDMENTS:**

- Keep the spiritual treatment defense for Murder, Manslaughter I and Manslaughter II
- Clarify that a person who would otherwise be convicted under Murder, Manslaughter I or Manslaughter II but for the spiritual treatment defense can be convicted of Criminally Negligent Homicide

**ISSUES DISCUSSED:**

- Importance of balancing right to religious liberty with protection of children and dependents
- Types of spiritual treatment

**BACKGROUND:** Currently, there is a “spiritual treatment defense” for Murder, Manslaughter I and II, where the victim was a child under 14, or a dependent person. To prove the defense, the defendant must prove that the victim was being treated solely by spiritual treatment because of the victim’s (or the victim’s parents’) religious beliefs. Unlike Murder and Manslaughter, the crime of Criminally Negligent Homicide – which is a lesser crime than Murder and Manslaughter – does not have a spiritual treatment defense. This bill keeps the spiritual treatment defense for Murder, Manslaughter I and II, and clarifies that a person who would have been convicted of one of these crimes but for the spiritual treatment defense can instead be convicted of criminally negligent homicide.

The crime of “Criminal Mistreatment” also has a “spiritual treatment defense.” This crime is committed by intentionally, knowingly or negligently withholding medical attention from another person, and is either a Class C Felony or Class A misdemeanor. This bill eliminates the spiritual treatment defense for this crime, allowing for a person providing spiritual treatment to be prosecuted for failing to provide medical attention.

The crime of “Criminal Non-support” also has a “spiritual treatment defense.” This crime is committed when a parent or guardian refuses or neglects to provide support to a child. Although this crime is generally applied in situations where a parent refuses to provide financial support, current law contains a provision specifying that spiritual treatment does not constitute a failure to provide support. This bill removes the provision, presumably allowing for prosecution of failing to provide medical care under this statute.

Currently, “spiritual treatment” is excluded from the definition of “child abuse.” This bill removes this exclusion, allowing for spiritual treatment to potentially be considered abuse if there is a failure to provide medical care. Current law provides that spiritual treatment by itself does not constitute a reason for the juvenile court to exercise jurisdiction over a child, unless the condition is such as to endanger the child’s welfare. This bill removes the spiritual treatment exception from the juvenile court jurisdiction statute, expanding the ability of the juvenile court to step in where there is spiritual treatment.

| Crime                         | Definition of crime*  | Spiritual Treatment Defense:                     |             |
|-------------------------------|---|--|-------------|
|                               |   | Current law?                                     | Under bill? |
| Murder                        | Causing the death of a child under 14 years of age by abuse and neglect or maltreatment, recklessly under circumstances manifesting extreme indifference to the value of human life | Yes  | Yes         |
| Manslaughter I                | Recklessly <sup>1</sup> causing the death of a child under 14 years of age by neglect or maltreatment   | Yes  | Yes         |
| Manslaughter II               | Negligently <sup>2</sup> causing the death of a child under 14 years of age by neglect or maltreatment  | Yes  | Yes         |
| Criminally Negligent Homicide | Causing the death of another person with criminal negligence  | No, although some believe current law is unclear | No          |
| Criminal Mistreatment I       | Violating a legal duty to care for the victim, intentionally or knowingly withholding necessary and adequate medical attention  | Yes  | No          |
| Criminal Mistreatment II      | Negligently withholding necessary and adequate medical care   | Yes  | No          |
| Criminal Non Support          | Refusing or neglecting to provide support for child by parent or guardian   | Yes  | No          |
| Definition of Abuse           | Negligent treatment or maltreatment of child, including failure to provide medical care.  | Yes  | No          |
| Juvenile Court Jurisdiction   | Juvenile court has jurisdiction if child's condition is such as to endanger child's welfare   | Yes  | No          |

\* For each of the listed crimes, there are various ways to commit the crime. The only definition specified in this summary is the portion of each crime to which spiritual treatment is a defense.

- 1 To prove that a person acted 'recklessly,' it must be proved that the person was aware of and consciously disregarded a substantial and unjustifiable risk that the result will occur. The risk must be of such a nature and degree that disregard thereof is a gross deviation from the standard of care that a reasonable person would observe in the situation.
- 2 To prove that a person acted 'negligently' it must be proved that the person failed to be aware of a substantial and unjustifiable risk that the result would occur. The risk must be of such a nature and degree that disregard thereof is a gross deviation from the standard of care that a reasonable person would observe in the situation.