

Language Suggestions – S9

Section 3:

We appreciate the affirmative defense

“where the child’s injury or death resulted from a lack of medical treatment or care, the defendant made a reasonable decision to not seek medical care or to withhold medical treatment.”

The problem is that Sec 3’s approach of guilty until proven innocent may unintentionally implicate just about anyone—including good parents. Vermonters will be made to prove their innocence. How does one provide proof after a tragedy that they made “a reasonable decision to not seek medical care or withhold medical treatment?”

- Solution #1: strike the entire section.

- Solution #2: (page 4)

*“where the child’s injury or death resulted from a lack of medical treatment or care, **or the choice was made to use non-pharmaceutical options**, the defendant made a reasonable decision to **either**: not seek medical care or to withhold medical treatment; **or seek non-pharmaceutical medical options**.”*- Replace with:

Up to 40% of Vermonters use natural, non-pharmaceutical approaches – how can we improve the affirmative to be sure that the statute does not give preference to pharmaceutical only?

or, go back to

33 VSA 4912 is amended as follows:

(6) "Harm" can occur by:

(A) Physical injury or emotional maltreatment.

(B) Failure to supply the child with adequate food, clothing, shelter, or health care. As used in this subchapter, "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under State law. Notwithstanding that a child might be found to be without proper parental care under chapters 51 and 53 of this title, a parent or other person responsible for a child's care legitimately seeking a second opinion or practicing his or her religious beliefs who thereby does not provide specified medical treatment for a child shall not be considered neglectful for that reason alone. Failure to provide immunizations or preventative medical care in and of itself does not constitute abuse or neglect; prevention is a parental decision and non-pharmaceutical, natural options may be sought.

Sections 6 and 11:

Problem is that 13 V.S.A. § 1021. Definitions of "Bodily injury: include physical pain, illness, or any impairment of physical condition and this is too broad. Illness is a natural process and a normal part of life; parents should not be investigated by grant-funded SIU's or law enforcement simply in case of illness.

- Solution for Sec. 6: (page 7)

Sec. 6. 24 V.S.A. § 1940. TASK FORCES; SPECIALIZED SPECIAL INVESTIGATIVE UNITS; BOARDS; GRANTS

(2) may investigate:

(A) an incident in which a child suffers:

(i) ~~bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021;~~
or

(B) potential violations of:

(iii) 13 V.S.A. § 1304; and

(iv) 13 V.S.A. § 1304a.

- Solution for Sec. 11:

Sec. 11. 33 V.S.A. § 4915b(e) is amended to read:

(3) may report to and request assistance from law enforcement when appropriate, including:

(A) an incident in which a child suffers:

(i) ~~bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021;~~
~~or~~

(ii) death; and

(B) potential violations of:

(iii) 13 V.S.A. § 1304; and

(iv) 13 V.S.A. § 1304a.

~~(3)(C) situations potentially dangerous to the child or Department worker.~~

Section 10:

Problem is that "any impairment of physical condition by other than accidental means" is too vague.

- Solution for Sec. 10: (page 18)

Go back to original statute: "Physical injury" means death or permanent or temporary disfigurement or impairment of any bodily organ or function by other than accidental means.