

Executive summary - Idaho should repeal religious exemption laws that shield parents from accountability when children are denied necessary medical care, because religious freedom protects belief but does not justify preventable harm to a child. The request is simple: protect every Idaho child under the same standard of care until the age of 18, consistent with constitutional principles, Idaho's equal-treatment commitments, and U.S. Supreme Court precedent.

1. Equal standards for all parents - Some legislators have argued that religious exemptions should remain because the parents who rely on them are kind and love their children. That may be true, but love alone does not satisfy a parent's legal duty to provide food, shelter, clothing, and necessary medical care. Idaho law should hold all parents to the same child-protection standard.

2. Religious freedom and child safety - Adults have a fundamental right to religious freedom, but that right should not permit preventable harm to vulnerable children. Religious belief deserves protection; conduct that endangers a child's life should not.

3. Supreme Court precedent - The U.S. Supreme Court has repeatedly distinguished between protected religious belief and conduct that may be regulated when it harms others. In *Reynolds v. United States* (1879), the Court held that religious belief did not excuse conduct prohibited by law. George Reynolds, a member of the Church of Jesus Christ of Latter-day Saints, was charged with bigamy under the federal Morrill Anti-Bigamy Act after marrying a woman while still married to his previous wife. Reynolds argued that the law was unconstitutional. He reasoned that his religion required him to marry multiple women and the law therefore violated his First Amendment right to free exercise of religion.

Question

Is religious duty or belief a defense to a criminal charge?

Conclusion

The Court upheld Reynolds's conviction and Congress's power to prohibit polygamy. The Court held that "while Congress could not outlaw a belief in the correctness of polygamy, it could outlaw the practice thereof". The Court also held that "people cannot avoid a law due to their religion". "Suppose one believed that human sacrifices were a necessary part of religious worship, would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice?"

"Can a man excuse his practices to the contrary because of his religious belief? [98 U.S. 145, 167] To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances."

In *Prince v. Massachusetts* (1944), the Court reinforced the principle that parents may choose religious risks for themselves, but they may not impose those risks on children who have not reached legal maturity.

4. Fourteenth Amendment protections - Legislators who rely on the First Amendment should also consider the Fourteenth Amendment's protection of life, liberty, due process, and equal protection. Children are persons under the Constitution, and the state should not deny them equal protection when their lives are at risk.

We agree, the First Amendment should be used to protect parent's right to have religious freedom, but the Fourteenth Amendment should also be used to allow these children the right to life.

Amendment XIV

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Constitution protects "any person," not only parents. Idaho should not create legal preferences that allow one person's religious practice to deprive another person—especially a child—of life, safety, and equal protection under the law.

5. Idaho Constitution and equal treatment - The Idaho Constitution states that no preference should be given by law to any religious denomination or mode of worship.

Article I, Section 4 provides that "nor shall any preference be given by law to any religious denomination or mode of worship." Idaho's religious exemptions appear to give a narrow group of citizens protection from child-neglect laws that apply to all other Idahoans. All parents should be held to the same standard when a child's health or life is at stake.

6. Inconsistent treatment under Idaho law - One Idaho statute can shield a parent who relies on prayer or spiritual means alone instead of providing medical care for a child, while imposing penalties when a spouse is abandoned or denied necessary care. This inconsistency should be corrected so children receive at least the same legal protection as adults.

Idaho Code 18-401 – Desertion and Nonsupport of Children or Spouse

Every person who:

(1) Having any child under the age of eighteen (18) years **dependent** upon him or her for care, education or support, deserts such child in any manner whatever, with intent to abandon it;

(2) Willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, or medical attendance for his or her child or children, or ward or wards; provided however, that the practice of a parent or **guardian** who chooses for his child treatment by prayer or spiritual means alone shall not for that reason alone be construed to be a violation of the duty of care to such child;

(3) Having sufficient ability to provide for a spouse's support, or who is able to earn the means for such spouse's support, who willfully abandons and leaves a spouse in a destitute condition, or who refuses or neglects to provide such spouse with necessary food, clothing, shelter, or medical attendance, unless by the spouse's misconduct he or she is justified in abandoning him or her;

Shall be guilty of a **felony** and shall be punishable by a fine of not more than five hundred dollars (\$500), or by imprisonment for not to exceed fourteen (14) years, or both.

7. Public accountability - In the 2018 primary election, Vickie Degeus-Morris lost her re-election bid for Canyon County coroner to Jennifer Crawford. This result suggests that many Idaho voters are ready for stronger accountability when children suffer or die from medical neglect.

8. Longstanding legislative inaction - The laws shielding parents from accountability for denying necessary medical care to children were enacted more than forty years ago. Available advocacy data should be cited here to support claims about reported child deaths and comparative death rates.

9. Recent missed opportunities - In 2017, the Governor asked the Idaho Legislature to study this issue. Although two bills were submitted for consideration, the study group did not hold hearings on those proposals and instead advanced a bill that members described as one neither side could

support. The bill failed, and in 2018 legislators again deferred action, leaving children exposed to preventable harm.

10. The solution: protect children until age 18 - Idaho should protect every child until they reach the age of full legal discretion. Adults may choose faith healing for themselves, but children should first be given the chance to survive childhood and make that decision for themselves when they are legally able. The Idaho Legislature should repeal religious exemption laws that prevent equal protection for children during the next legislative session.

11. Moral duty to protect life - The Sixth Commandment says, "Thou shalt not kill." Allowing a child to suffer from a preventable disease when necessary medical treatment is available raises a serious moral concern. Prayer may be meaningful to families, but relying on prayer alone instead of lifesaving care can contribute to a child's preventable death and contradict the duty to protect life.