

Chapter 9A.42 RCW
CRIMINAL MISTREATMENT

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RCW 9A.42.005 Findings and intent—Christian Science treatment—Rules of evidence. The legislature finds that there is a significant need to protect children and dependent persons, including frail elder and vulnerable adults, from abuse and neglect by their parents, by persons entrusted with their physical custody, or by persons employed to provide them with the basic necessities of life. The legislature further finds that such abuse and neglect often takes the forms of either withholding from them the basic necessities of life, including food, water, shelter, clothing, and health care, or abandoning them, or both. Therefore, it is the intent of the legislature that criminal penalties be imposed on those guilty of such abuse or neglect. It is the intent of the legislature that a person who, in good faith, is furnished Christian Science treatment by a duly accredited Christian Science practitioner in lieu of medical care is not considered deprived of medically necessary health care or abandoned. Prosecutions under this chapter shall be consistent with the rules of evidence, including hearsay, under law. [1997 c 392 § 507.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

- RCW 9A.42.010 Definitions.** As used in this chapter:
- (1) "Abandons" means leaving a child or other dependent person without the means or ability to obtain one or more of the basic necessities of life.
- (2) "Basic necessities of life" means food, water, shelter, clothing, and medically necessary health care, including but not

limited to health-related treatment or activities, hygiene, oxygen, and medication.

(3) (a) "Bodily injury" means physical pain or injury, illness, or an impairment of physical condition;

(b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;

(c) "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily part or organ.

(4) "Child" means a person under eighteen years of age.

(5) "Dependent person" means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life. A resident of a nursing home, as defined in RCW 18.51.010, a resident of an adult family home, as defined in RCW 70.128.010, and a frail elder or vulnerable adult, as defined in *RCW 74.34.020(22), is presumed to be a dependent person for purposes of this chapter.

(6) "Employed" means hired by a dependent person, another person acting on behalf of a dependent person, or by an organization or governmental entity, to provide to a dependent person any of the basic necessities of life. A person may be "employed" regardless of whether the person is paid for the services or, if paid, regardless of who pays for the person's services.

(7) "Good samaritan" means any individual or group of individuals who: (a) Is not related to the dependent person; (b) voluntarily provides assistance or services of any type to the dependent person; (c) is not paid, given gifts, or made a beneficiary of any assets valued at five hundred dollars or more, for any reason, by the dependent person, the dependent person's family, or the dependent person's estate; and (d) does not commit or attempt to commit any other crime against the dependent person or the dependent person's estate.

(8) "Parent" has its ordinary meaning and also includes a guardian and the authorized agent of a parent or guardian. [2020 c 18 § 7; 2006 c 228 § 1; 1997 c 392 § 508; 1996 c 302 § 1; 1986 c 250 § 1.]

Reviser's note: *(1) RCW 74.34.020 was amended by 2020 c 312 § 735, changing subsection (22) to subsection (21).

(2) The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Explanatory statement—2020 c 18: See note following RCW 43.79A.040.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Severability—1996 c 302: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1996 c 302 § 7.]

RCW 9A.42.020 Criminal mistreatment in the first degree. (1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the first degree if he or she with criminal negligence, as defined in RCW 9A.08.010, causes great bodily harm to a child or dependent person by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the first degree is a class B felony. [2017 c 266 § 2; 2006 c 228 § 2; 1997 c 392 § 510; 1986 c 250 § 2.]

Finding—Intent—2017 c 266: "The legislature finds that seniors and people with disabilities face a growing threat of financial exploitation and physical neglect. The legislature intends with this act to hold accountable those perpetrators who commit theft and physical neglect of seniors and people with disabilities by increasing penalties, reducing barriers to prosecution, and expanding the scope of protection for vulnerable persons." [2017 c 266 § 1.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

RCW 9A.42.030 Criminal mistreatment in the second degree. (1) A parent of a child, the person entrusted with the physical custody of a child or dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the second degree if he or she with criminal negligence, as defined in RCW 9A.08.010, either (a) creates an imminent and substantial risk of death or great bodily harm by withholding any of the basic necessities of life, or (b) causes substantial bodily harm by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the second degree is a class C felony. [2017 c 266 § 3; 2006 c 228 § 3; 1997 c 392 § 511; 1986 c 250 § 3.]

Finding—Intent—2017 c 266: See note following RCW 9A.42.020.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

RCW 9A.42.035 Criminal mistreatment in the third degree. (1) A person is guilty of the crime of criminal mistreatment in the third degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, is a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or is a person employed to provide to the child or dependent person the basic necessities of life and, with criminal negligence, creates an imminent and substantial

risk of substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life.

(2) For purposes of this section, "a person who has assumed the responsibility to provide to a dependent person the basic necessities of life" means a person other than: (a) A government agency that regularly provides assistance or services to dependent persons, including but not limited to the department of social and health services; or (b) a good samaritan as defined in RCW 9A.42.010.

(3) Criminal mistreatment in the third degree is a gross misdemeanor. [2017 c 266 § 4; 2006 c 228 § 4; 2000 c 76 § 1.]

Finding—Intent—2017 c 266: See note following RCW 9A.42.020.

RCW 9A.42.037 Criminal mistreatment in the fourth degree. (1) A person is guilty of the crime of criminal mistreatment in the fourth degree if the person is the parent of a child, is a person entrusted with the physical custody of a child or other dependent person, is a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or is a person employed to provide to the child or dependent person the basic necessities of life, and either:

(a) With criminal negligence, creates an imminent and substantial risk of bodily injury to a child or dependent person by withholding any of the basic necessities of life; or

(b) With criminal negligence, causes bodily injury or extreme emotional distress manifested by more than transient physical symptoms to a child or dependent person by withholding the basic necessities of life.

(2) For purposes of this section, "a person who has assumed the responsibility to provide to a dependent person the basic necessities of life" means a person other than: (a) A government agency that regularly provides assistance or services to dependent persons, including but not limited to the department of social and health services; or (b) a good samaritan as defined in RCW 9A.42.010.

(3) Criminal mistreatment in the fourth degree is a misdemeanor. [2006 c 228 § 5; 2002 c 219 § 2.]

Intent—Finding—2002 c 219: "The legislature recognizes that responses by the department of social and health services and public safety agencies have varied between jurisdictions when allegations of withholding of the basic necessities of life are made. The legislature intends to improve the capacity of the department of social and health services and public safety agencies to respond to situations where the basic necessities of life are withheld by allowing an earlier intervention in such cases. The legislature finds that improved coordination between the department of social and health services and public safety agencies at an earlier point will lead to better treatment of children and families and will reduce the likelihood of serious harm." [2002 c 219 § 1.]

RCW 9A.42.039 Arresting officer, notification by. (1) When a law enforcement officer arrests a person for criminal mistreatment of a child, the officer must notify child protective services.

(2) When a law enforcement officer arrests a person for criminal mistreatment of a dependent person other than a child, the officer must notify adult protective services. [2002 c 219 § 5.]

Intent—Finding—2002 c 219: See note following RCW 9A.42.037.

RCW 9A.42.040 Withdrawal of life support systems. RCW 9A.42.020, 9A.42.030, 9A.42.035, and 9A.42.037 do not apply to decisions to withdraw life support systems made in accordance with chapter 7.70 or 70.122 RCW by the dependent person, his or her legal surrogate, or others with a legal duty to care for the dependent person. [2002 c 219 § 3; 2000 c 76 § 2; 1986 c 250 § 4.]

Intent—Finding—2002 c 219: See note following RCW 9A.42.037.

RCW 9A.42.045 Palliative care. RCW 9A.42.020, 9A.42.030, 9A.42.035, and 9A.42.037 do not apply when a terminally ill or permanently unconscious person or his or her legal surrogate, as set forth in chapter 7.70 RCW, requests, and the person receives, palliative care from a licensed home health agency, hospice agency, nursing home, or hospital providing care under the medical direction of a physician. As used in this section, the terms "terminally ill" and "permanently unconscious" have the same meaning as "terminal condition" and "permanent unconscious condition" in chapter 70.122 RCW. [2002 c 219 § 4; 2000 c 76 § 3; 1997 c 392 § 512.]

Intent—Finding—2002 c 219: See note following RCW 9A.42.037.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

RCW 9A.42.050 Defense of financial inability. In any prosecution for criminal mistreatment, it shall be a defense that the withholding of the basic necessities of life is due to financial inability only if the person charged has made a reasonable effort to obtain adequate assistance. This defense is available to a person employed to provide the basic necessities of life only when the agreed-upon payment has not been made. [1997 c 392 § 509; 1986 c 250 § 5.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

RCW 9A.42.060 Abandonment of a dependent person in the first degree—Exception. (1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the first degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, a person who has assumed the responsibility to provide to a dependent person

the basic necessities of life, or a person employed to provide to the child or other dependent person any of the basic necessities of life;

(b) The person recklessly abandons the child or other dependent person; and

(c) As a result of being abandoned, the child or other dependent person suffers great bodily harm.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.

(3) Abandonment of a dependent person in the first degree is a class B felony. [2006 c 228 § 6; 2002 c 331 § 3; 1996 c 302 § 2.]

Intent—Effective date—2002 c 331: See notes following RCW 13.34.360.

Severability—1996 c 302: See note following RCW 9A.42.010.

RCW 9A.42.070 Abandonment of a dependent person in the second degree—Exception. (1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the second degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or other dependent person any of the basic necessities of life; and

(b) The person recklessly abandons the child or other dependent person; and:

(i) As a result of being abandoned, the child or other dependent person suffers substantial bodily harm; or

(ii) Abandoning the child or other dependent person creates an imminent and substantial risk that the child or other dependent person will die or suffer great bodily harm.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.

(3) Abandonment of a dependent person in the second degree is a class C felony. [2006 c 228 § 7; 2002 c 331 § 4; 1996 c 302 § 3.]

Intent—Effective date—2002 c 331: See notes following RCW 13.34.360.

Severability—1996 c 302: See note following RCW 9A.42.010.

RCW 9A.42.080 Abandonment of a dependent person in the third degree—Exception. (1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the third degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, a person who has assumed the responsibility to provide to a dependent person the basic necessities of life, or a person employed to provide to the child or dependent person any of the basic necessities of life; and

(b) The person recklessly abandons the child or other dependent person; and:

(i) As a result of being abandoned, the child or other dependent person suffers bodily harm; or

(ii) Abandoning the child or other dependent person creates an imminent and substantial risk that the child or other person will suffer substantial bodily harm.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.

(3) Abandonment of a dependent person in the third degree is a gross misdemeanor. [2006 c 228 § 8; 2002 c 331 § 5; 1996 c 302 § 4.]

Intent—Effective date—2002 c 331: See notes following RCW 13.34.360.

Severability—1996 c 302: See note following RCW 9A.42.010.

RCW 9A.42.090 Abandonment of a dependent person—Defense. It is an affirmative defense to the charge of abandonment of a dependent person, that the person employed to provide any of the basic necessities of life to the child or other dependent person, gave reasonable notice of termination of services and the services were not terminated until after the termination date specified in the notice. The notice must be given to the child or dependent person, and to other persons or organizations that have requested notice of termination of services furnished to the child or other dependent person.

The department of social and health services and the department of health shall adopt rules establishing procedures for termination of services to children and other dependent persons. [1996 c 302 § 5.]

Severability—1996 c 302: See note following RCW 9A.42.010.

RCW 9A.42.100 Endangerment with a controlled substance. A person is guilty of the crime of endangerment with a controlled substance if the person knowingly or intentionally permits a dependent child or dependent adult to be exposed to, ingest, inhale, or have contact with methamphetamine or ephedrine, pseudoephedrine, or anhydrous ammonia, including their salts, isomers, and salts of isomers, that are being used in the manufacture of methamphetamine, including its salts, isomers, and salts of isomers. Endangerment with a controlled substance is a class B felony. [2005 c 218 § 4; 2002 c 229 § 1.]

Effective date—2002 c 229: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2002]." [2002 c 229 § 4.]

RCW 9A.42.110 Leaving a child in the care of a sex offender.

(1) A person is guilty of the crime of leaving a child in the care of a sex offender if the person is (a) the parent of a child; (b)

entrusted with the physical custody of a child; or (c) employed to provide to the child the basic necessities of life, and leaves the child in the care or custody of another person who is not a parent, guardian, or lawful custodian of the child, knowing that the person is registered or required to register as a sex offender under the laws of this state, or a law or ordinance in another jurisdiction with similar requirements, because of a sex offense against a child.

(2) It is an affirmative defense to the charge of leaving a child in the care of a sex offender under this section, that the defendant must prove by a preponderance of the evidence, that a court has entered an order allowing the offender to have unsupervised contact with children, or that the offender is allowed to have unsupervised contact with the child in question under a family reunification plan, which has been approved by a court, the department of corrections, or the department of social and health services in accordance with department policies.

(3) Leaving a child in the care of a sex offender is a misdemeanor. [2002 c 170 § 1.]