

# SENATE BILL REPORT

## ESHB 1234

---

---

As of March 25, 2009

**Title:** An act relating to creating the new crime of abandonment of a dependent person in the fourth degree.

**Brief Description:** Creating the new crime of abandonment of a dependent person in the fourth degree.

**Sponsors:** House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Morrell, O'Brien, Appleton, Kelley, Ericks, Lias, Pedersen, Williams, Kenney and Moeller).

**Brief History:** Passed House: 3/05/09, 70-27.

**Committee Activity:** Human Services & Corrections: 3/24/09.

---

### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Kevin Black (786-7747)

**Background:** In general, a person commits abandonment of a dependent person if the person:

- is the parent of a child, is a person entrusted with the physical custody of a child or dependent person, or is employed to provide a child or dependent person with the basic necessities of life; and
- abandons the dependent person.

The penalty for abandonment of a dependent person depends on the intent of the perpetrator and the harm caused to the victim:

- It is abandonment of a dependent person in the first degree if the perpetrator recklessly causes great bodily harm. This is a class B felony with a seriousness level of V.
  - It is abandonment of a dependent person in the second degree if the perpetrator recklessly creates an imminent and substantial risk of death or great bodily harm or recklessly causes substantial bodily harm. This is a class C felony with a seriousness level of III.
  - It is abandonment of a dependent person in the third degree if the perpetrator recklessly creates an imminent and substantial risk of substantial bodily harm. This is a gross misdemeanor.
- 

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

All degrees of the crime of abandonment of a dependent person provide that the parent of a newborn who transfers the newborn to a qualified person under the Juvenile Court Act is not subject to criminal liability.

**Summary of Bill:** The crime of abandonment of a dependent person in the fourth degree is created. The crime is a simple misdemeanor. A person commits abandonment of a dependent person 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, or is a person employed to provide to a dependent person the basic necessities of life;
- with criminal negligence abandons the child or other dependent person; and
- as a result of being abandoned, the person either creates an imminent and substantial risk of bodily harm to the child or dependent person, or causes bodily harm or extreme emotional distress manifested by more than transient physical symptoms.

For the purposes of this legislation, the term "child" is defined as any person under the age of eight.

The parent of a newborn who transfers the newborn to a qualified person under the Juvenile Court Act is not subject to criminal liability under the bill.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill was inspired by recent local incidents which have put children at risk. Sometimes you can't find a crime to use to prosecute. This bill answers the question, how old do your kids have to be before you can leave them home alone? This bill may prevent serious injury and death for children. It doesn't criminalize poverty. It is limited in its scope. We only want to prevent grossly negligent behavior. Under the criminal justice system, we will be able to offer parenting classes and probation.

CON: The existing criminal abandonment statute is frequently abused. The Department of Social and Health Services extorts free unpaid care from the families of parents of adults with disabilities. Families are threatened with criminal prosecution. This bill will create an even greater risk for these families.

**Persons Testifying:** PRO: Representative Morrell, prime sponsor; Ryan Portman, Steve Kirkelie, city of Puyallup; Angela Nilsson, Washington State Association of Children's Advocacy Centers.

CON: Loren Freeman, citizen.