

SENATE BILL REPORT

EHB 1186

As Reported By Senate Committee On:
Law & Justice, February 19, 1998

Title: An act relating to criminal law.

Brief Description: Changing duties for aiding injured persons and the penalties for second degree murder.

Sponsors: Representatives Hickel, Mitchell, Ballasiotes, Dickerson, Robertson, Blalock, Benson, Quall, Sheahan, Delvin, Lisk, Carrell, Cairnes, McDonald, Johnson and DeBolt.

Brief History:

Committee Activity: Law & Justice: 4/2/97, 2/19/98 [DPA].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, Stevens and Zarelli.

Staff: Aldo Melchiori (786-7439)

Background: Under common law, a person generally has no duty to rescue another person in distress. An exception to this rule is when a special relationship exists between the parties and that relationship creates a duty to assist.

Some statutes in Washington have departed from common law in limited ways and have established an affirmative duty to assist another. One example is the duty to report suspected child abuse or neglect. Another is to report child pornography film that is presented for developing. A third is to summon aid for a peace officer when requested. A violation of any of these statutes carries criminal penalties.

Since 1968, four states have enacted duty-to-rescue statutes: Vermont, Minnesota, Rhode Island, and Massachusetts. The penalties are generally either a fine, a limited possible term of confinement (up to one year), or both. Duty to rescue statutes exist in 13 European countries.

A person commits the crime of rendering criminal assistance if the person, in any of a variety of ways, tries to hinder the apprehension or prosecution of a person who has committed an offense. Failing to assist a victim of the offender's crime is not listed as one of the ways in which a person may commit the crime of rendering criminal assistance.

Rendering criminal assistance is a class C felony if the person is not related to the offender and the crime the offender committed is a class A felony. The crime is a gross misdemeanor when the person is related to the offender. Rendering criminal assistance is a gross

misdemeanor if the person is not related to the offender and the crime the offender committed is a class B or C felony. If the person is a relative, the crime is a misdemeanor.

Summary of Amended Bill: A person is guilty of failing to summon assistance if the person knows that another person has suffered substantial bodily harm and needs help; the person could reasonably summon assistance for the injured person without placing himself or herself in danger and without interfering with an important duty owed to a third party; the person fails to summon assistance for the injured person; and another person is not summoning assistance for the injured person. A person satisfies the requirement to summon assistance by making reasonable efforts to summon emergency aid to the victim's location. Failing to summon assistance is a misdemeanor.

The "relative discount" found in the statutory definition of rendering criminal assistance is removed. All persons who commit this crime shall be treated equally.

Amended Bill Compared to Original Bill: The provisions regarding second degree murder are eliminated because they were enacted during the 1997 legislative session.

The affirmative defense requirement that the person knows— that another person is summoning help is changed to reasonably believes.— The definition of renders criminal assistance— in the current statutes is unchanged.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: None.

Testimony Against: None.

Testified: No one.