

***Criminal Justice & Corrections  
Committee***

***HB 1966***

***Brief Description:*** Making it a crime to fail to protect children and dependent persons.

***Sponsors:*** Representatives Pennington, Hatfield, Mielke and Doumit.

***Brief Summary of Bill***

- *Creates duty for certain adults to aid a child or dependent person suffering abuse, neglect, or assault. This duty applies to parents, stepparents, foster parents, guardians, and other adults entrusted with physical custody of a child or dependent person.*
- *Makes it a class C felony to fail to aid a child or dependent person suffering abuse, neglect, or assault.*

***Hearing Date:*** 2/21/01

***Staff:*** Christopher Waraksa (786-5793).

***Background:***

*At common law there is no general duty to act to aid another. The law creates certain circumstances, however, in which a duty to aid or protect another is imposed. In a number of cases the relationship between two people creates a duty to aid or protect. For example, parents have a duty to care for and protect their children. Failure to fulfill that duty can result in a loss of parental rights and other civil detriments.*

*In some circumstances failure to fulfill the duty to aid or protect a child is punishable as a crime. However, the state supreme court has held that breach of a parent's duty to aid or protect a child is not enough to make that person an accomplice to the crime against a child. Thus, a parent who stands by while his or her child is abused is not guilty of abuse, though they may be guilty of other crimes based on their duty to aid.*

*A number of statutes in Washington make it a crime to fail to aid a child or dependent person who is being victimized. For example, a witness of the actual commission of a violent offense, a sexual offense, or an assault of a child, or who witnesses preparations for such a crime or an attempt to commit such a crime is guilty of a gross misdemeanor if they fail to notify the appropriate public officials.*

*Under the child abuse reporting statutes certain professionals, (e.g., doctors, police, teachers, social workers, child care workers) are required to report child abuse or neglect to the police or to the Department of Social and Health Services. In addition, any adult living with a child who has cause to believe severe abuse has occurred must report it. Knowing failure to report child abuse as required under the reporting statute is a gross misdemeanor. Under this statute child abuse or neglect means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety are harmed, excluding physical discipline which is reasonable and moderate and is inflicted by a parent, teacher, or guardian for purposes of restraining or correcting the child.*

*Additionally, the criminal mistreatment statutes make it a crime for certain persons to withhold the basic necessities of life (food, water, shelter, clothing, and medical necessary health care) from a child where such withholding would substantially harm or threaten with substantial harm that child or dependent person. These statutes apply to a parent of a child, a person employed to provide the basic necessities of life to a child or dependent person, or any person entrusted with physical custody of a child.*

*There are three degrees of criminal mistreatment:*

*•**First degree criminal mistreatment is a class B felony.** A person commits first degree criminal mistreatment by recklessly withholding basic necessities of life resulting in great bodily harm to a child or dependent person. 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.*

*•**Second degree criminal mistreatment is a class C felony.** A person commits second degree criminal mistreatment by recklessly creating an imminent and substantial risk of death or great bodily harm or by causing substantial bodily harm by withholding any of the basic necessities of life. 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.*

*•**Third degree criminal mistreatment is a gross misdemeanor.** A person commits third degree criminal mistreatment who: (1) 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; or (2) with criminal negligence causes substantial bodily harm to a child or dependent person by withholding any of the basic necessities of life.*

*An unranked felony carries a maximum sentence of one year. The maximum sentence allowed for a ranked class C felony is five years.*

***Summary of Bill:***

*Requires parents, stepparents, foster parents, guardians, and other adults entrusted with physical custody of a child under 18 years or dependent person to aid that child or dependent person when they are suffering abuse, neglect or assault. The duty requires that the adult make a reasonable effort to aid but does not require an adult to perform any action that a reasonable person would believe would place that person or another person in danger of immediate substantial bodily harm. Aid is defined in the bill as helping or assisting, and it includes, but is not limited to, procuring medical assistance, intervening in the abuse or neglect or physical assault of the child, and contacting police, law enforcement, or other public officials.*

*Failure to aid under the bill is an unranked class C felony.*

***Appropriation:*** *None.*

***Fiscal Note:*** *Requested on February 15, 2001.*

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