

SENATE BILL REPORT

SHB 2382

As Reported By Senate Committee On:
Judiciary, February 26, 2002

Title: An act relating to criminal mistreatment.

Brief Description: Revising provisions relating to criminal mistreatment.

Sponsors: House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Dickerson, O'Brien, Kagi, Darneille and Chase).

Brief History:

Committee Activity: Judiciary: 2/21/02, 2/26/02 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Kastama, Vice Chair; Costa, Hargrove, Long, Poulsen and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: There are currently three degrees of criminal mistreatment. A parent of a child, a person entrusted with the physical custody of a child or dependent person, or a person employed to provide a child or dependent person the basic necessities of life, is guilty of:

- criminal mistreatment in the first degree if he or she recklessly causes great bodily harm to a child by withholding the basic necessities of life. Criminal mistreatment in the first degree is a class B felony ranked at level V on the sentencing grid (six to 12 months for a first offense).
- criminal mistreatment in the second degree if he or she recklessly creates an imminent and substantial risk of death or great bodily harm or causes substantial bodily harm by withholding the basic necessities of life. Criminal mistreatment in the second degree is a class C felony ranked at level III on the sentencing grid (one to three months for a first offense).
- criminal mistreatment in the third degree if he or she, with criminal negligence, creates an imminent and substantial risk of substantial bodily harm by withholding the basic necessities of life or causes substantial bodily harm to a child or dependent person by withholding the basic necessities of life. Criminal mistreatment in the third degree is a gross misdemeanor (up to one year confinement).

Summary of Amended Bill: Criminal mistreatment in the fourth degree is a misdemeanor. A person commits criminal mistreatment in the fourth degree if, with criminal negligence:

(1) the person creates an imminent and substantial risk of bodily injury to a child or dependent person by withholding the basic necessities of life; or (2) the person causes bodily harm or causes extreme emotional distress manifested by more than transient physical symptoms to a child or dependent person by withholding the basic necessities of life.

A law enforcement officer who arrests a person for criminal mistreatment must notify Child Protective Services or adult protective services. DSHS, in consultation with the Attorney General and representative of law enforcement agencies, prepares a plan for improved coordination of services to families when a family member is charged with criminal mistreatment. The plan must be submitted to the Governor and the Legislature by December 1, 2002.

A parent charged with criminal mistreatment in the third or fourth degree where the victim is the parent's natural or adoptive child, may be eligible for deferred prosecution one time. In order to be eligible, the person must petition the court and allege a listed mitigating circumstance. The petition must also contain a case history and a written service plan as well as a written waiver of trial rights and a stipulation to the admissibility and sufficiency of the facts contained in it and a copy of the plan. If DSHS recommends a child welfare services plan, the plan must include the type, nature and length of services, and the approximate cost of the services. When the court receives proof that the petitioner has successfully completed the child welfare service plan, or the plan has been terminated because the alleged victim has reached his or her majority and there are no other minor children in the home, the court shall dismiss the charges.

The deferred prosecution provisions apply only to cases in which there is a child victim. Child welfare or dependency services provided pursuant to a deferred prosecution do not prohibit DSHS from providing services or undertaking proceedings under the child dependency law.

Amended Bill Compared to Substitute Bill: A law enforcement officer who arrests a person for criminal mistreatment must notify Child Protective Services or adult protective services. DSHS prepares a plan for improved coordination of services to families when a family member is charged with criminal mistreatment. A parent charged with criminal mistreatment in the third or fourth degree where the victim is the parent's natural or adoptive child, may be eligible for deferred prosecution one time. When the court receives proof that the petitioner has successfully completed the child welfare service plan, or the plan has been terminated because the alleged victim has reached his or her majority and there are no other minor children in the home, the court shall dismiss the charges.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Our criminal mistreatment laws are so narrowly written that many very serious cases of neglect may not be prosecuted. The point is not to put people in jail, but rather to get them the services they need and to change their behavior. More children are harmed from neglect than from abuse.

Testimony Against: None.

Testified: Tom McBride, WAPA; Mark Gustafson, Kent P.D.; Susan Sill, King County S.O.; Steve, Wickmark, Children's Alliance; Carol Cummings, King County S.O.; Keith Scully, King County Prosecuting Attorney.