CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1080

Chapter 228, Laws of 2006

59th Legislature
2006 Regular Session

CRIMINAL MISTREATMENT OF A DEPENDENT PERSON

EFFECTIVE DATE: 6/7/06

Passed by the House March 4, 2006
Yeas 97  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 2, 2006
Yeas 42  Nays 0

BRAD OWEN
President of the Senate

Certification

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 1080 as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER
Chief Clerk

FILED
March 27, 2006 - 2:15 p.m.

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to protecting dependent persons by changing the crimes of criminal mistreatment and abandonment of a dependent person; amending RCW 9A.42.010, 9A.42.020, 9A.42.030, 9A.42.035, 9A.42.037, 9A.42.060, 9A.42.070, and 9A.42.080; reenacting and amending RCW 9.94A.515; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 9A.42.010 and 1997 c 392 s 508 are each amended to read as follows:

As used in this chapter:

(1) "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.

(2)(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.

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

(4) "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, is presumed to be a dependent person for purposes of this chapter.

(5) "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.

(6) "Parent" has its ordinary meaning and also includes a guardian and the authorized agent of a parent or guardian.

(7) "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.

(8) "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.

Sec. 2. RCW 9A.42.020 and 1997 c 392 s 510 are each amended to read as follows:

(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 recklessly, 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.

Sec. 3. RCW 9A.42.030 and 1997 c 392 s 511 are each amended to read as follows:

(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 recklessly, as defined in RCW 9A.08.010, either (a) creates an imminent and substantial risk of death or great bodily harm, 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.

Sec. 4. RCW 9A.42.035 and 2000 c 76 s 1 are each amended to read as follows:

(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 either:

(a) 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

(b) With criminal negligence, causes 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.

Sec. 5. RCW 9A.42.037 and 2002 c 219 s 2 are each amended to read as follows:

(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.

Sec. 6. RCW 9A.42.060 and 2002 c 331 s 3 are each amended to read as follows:

(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.

Sec. 7. RCW 9A.42.070 and 2002 c 331 s 4 are each amended to read
as follows:

(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.

Sec. 8. RCW 9A.42.080 and 2002 c 331 s 5 are each amended to read
as follows:
(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.

Sec. 9. RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are each reenacted and amended to read as follows:

<table>
<thead>
<tr>
<th>TABLE 2</th>
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<tbody>
<tr>
<td>CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL</td>
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</table>

| XVI | Aggravated Murder 1 (RCW 10.95.020) |
| XV | Homicide by abuse (RCW 9A.32.055) |
| | Malicious explosion 1 (RCW 70.74.280(1)) |
| | Murder 1 (RCW 9A.32.030) |
| XIV | Murder 2 (RCW 9A.32.050) |
| | Trafficking 1 (RCW 9A.40.100(1)) |
| XIII | Malicious explosion 2 (RCW 70.74.280(2)) |
Malicious placement of an explosive 1 (RCW 70.74.270(1))

XII Assault 1 (RCW 9A.36.011)
Assault of a Child 1 (RCW 9A.36.120)
Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
Rape 1 (RCW 9A.44.040)
Rape of a Child 1 (RCW 9A.44.073)
Trafficking 2 (RCW 9A.40.100(2))

XI Manslaughter 1 (RCW 9A.32.060)
Rape 2 (RCW 9A.44.050)
Rape of a Child 2 (RCW 9A.44.076)

X Child Molestation 1 (RCW 9A.44.083)
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
Kidnapping 1 (RCW 9A.40.020)
Leading Organized Crime (RCW 9A.82.060(1)(a))
Malicious explosion 3 (RCW 70.74.280(3))
Sexually Violent Predator Escape (RCW 9A.76.115)

IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
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Criminal Mistreatment 1 (RCW 9A.42.020)
Explosive devices prohibited (RCW 70.74.180)
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Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
Malicious placement of an explosive (RCW 70.74.270(2))
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Sexual Exploitation (RCW 9.68A.040)
Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)

VIII Arson 1 (RCW 9A.48.020)
Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
Manslaughter 2 (RCW 9A.32.070)
Promoting Prostitution 1 (RCW 9A.88.070)
Theft of Ammonia (RCW 69.55.010)
Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)

VII Burglary 1 (RCW 9A.52.020)
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Civil Disorder Training (RCW 9A.48.120)
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
Drive-by Shooting (RCW 9A.36.045)
Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
Introducing Contraband 1 (RCW 9A.76.140)
Malicious placement of an explosive
   (RCW 70.74.270(3))

Negligently Causing Death By Use of
   a Signal Preemption Device
   (RCW 46.37.675)

Sending, bringing into state depictions
   of minor engaged in sexually
   explicit conduct (RCW 9.68A.060)

Unlawful Possession of a Firearm in
   the first degree (RCW 9.41.040(1))

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   of a Felony (RCW 9.41.225)

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   the safety of others (RCW 46.61.520)

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   Bribery (RCW 9A.68.010)

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   Intimidating a Judge (RCW 9A.72.160)

   Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)

   Malicious placement of an imitation
device 2 (RCW 70.74.272(1)(b))

   Rape of a Child 3 (RCW 9A.44.079)

   Theft of a Firearm (RCW 9A.56.300)

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   Abandonment of Dependent Person 2
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(RCW 9A.82.030)

Bail Jumping with class A Felony
(RCW 9A.76.170(3)(b))

Child Molestation 3 (RCW 9A.44.089)

Criminal Mistreatment 1 (RCW 9A.42.020))

Criminal Mistreatment 2 (RCW 9A.42.030)

Custodial Sexual Misconduct 1 (RCW 9A.44.160)

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Extortionate Extension of Credit
(RCW 9A.82.020)

Extortionate Means to Collect
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Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Perjury 1 (RCW 9A.72.020)

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Possession of a Stolen Firearm (RCW 9A.56.310)

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Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)

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Assault 2 (RCW 9A.36.021)
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Assault by Watercraft (RCW 79A.60.060)
Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
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Commercial Bribery (RCW 9A.68.060)
Counterfeiting (RCW 9.16.035(4))
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Escape 1 (RCW 9A.76.110)
Hit and Run--Injury (RCW 46.52.020(4)(b))
Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))
Identity Theft 1 (RCW 9A.35.020(2))
Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
Influencing Outcome of Sporting Event (RCW 9A.82.070)
Malicious Harassment (RCW 9A.36.080)
Residential Burglary (RCW 9A.52.025)
Robbery 2 (RCW 9A.56.210)
Theft of Livestock 1 (RCW 9A.56.080)
Threats to Bomb (RCW 9.61.160)
Trafficking in Stolen Property 1 (RCW 9A.82.050)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))

Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))

Unlawful transaction of insurance business (RCW 48.15.023(3))

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III (Abandonment of dependent person 2 (RCW 9A.42.070))

Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))

Assault of a Child 3 (RCW 9A.36.140)

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Burglary 2 (RCW 9A.52.030)
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Criminal Mistreatment 2 (RCW 9A.42.030)

Custodial Assault (RCW 9A.36.100)

Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

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Unlawful Imprisonment (RCW 9A.40.040)
Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
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Identity Theft 2 (RCW 9.35.020(3))
Improperly Obtaining Financial Information (RCW 9.35.010)
Malicious Mischiefs 1 (RCW 9A.48.070)
Possession of Stolen Property 1 (RCW 9A.56.150)
Theft 1 (RCW 9A.56.030)
Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))

Unlawful Practice of Law (RCW 2.48.180)

Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

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Mineral Trespass (RCW 78.44.330)

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Reckless Burning 1 (RCW 9A.48.040)

Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

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Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Vehicle Prowl 1 (RCW 9A.52.095)

Passed by the House March 4, 2006.
Passed by the Senate March 2, 2006.
Approved by the Governor March 27, 2006.
Filed in Office of Secretary of State March 27, 2006.