

SENATE BILL REPORT

SB 5417

As Reported By Senate Committee On:
Law & Justice, January 17, 1996

Title: An act relating to abandonment of dependent persons.

Brief Description: Making it a crime to abandon a dependent person.

Sponsors: Senators Fraser, Winsley, Wojahn, Oke and Kohl.

Brief History:

Committee Activity: Law & Justice: 2/7/95, 2/23/95 [DPS]; 1/17/96 [DP2S].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Second Substitute Senate Bill No. 5417 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Smith, Chair; Fairley, Vice Chair; Goings, Johnson, Long, McCaslin, Roach and Schow.

Staff: Susan Carlson (786-7418)

Background: Persons with disabilities often rely on caregivers to assist them in daily living activities, such as dressing, personal hygiene, taking medication, and preparing meals. If a caregiver abandons the disabled person or refuses to assist them, the person can be left helpless.

Under current law, a person entrusted with the physical custody of a dependent person may be charged with criminal mistreatment for withholding any of the basic necessities of life. First degree criminal mistreatment, a class B felony, is committed if great bodily harm was caused to the dependent person by withholding any of the basic necessities. Second degree criminal mistreatment, a class C felony, is committed if there is an imminent and substantial risk of death or great bodily harm, or if substantial bodily harm is caused.

It has been suggested that the criminal mistreatment statutes should apply to persons employed or entrusted with the physical care of dependent persons.

Summary of Second Substitute Bill: The crime of criminal mistreatment applies to conduct of persons employed or entrusted to provide physical care of a dependent person. A third degree of criminal mistreatment is created which covers recklessly creating an imminent and substantial risk of bodily injury by withholding any of the basic necessities of life. Criminal mistreatment in the third degree is a gross misdemeanor.

In the context of a dependent person, the term "employed" includes a person hired by the dependent person, and a person provided by an organization or governmental entity to care for the dependent person. The term "entrusted" means that the person has established a

pattern of providing regular care for the dependent person. The term "basic necessities of life" includes hygiene, medication, and health-related treatment or activities.

Criminal mistreatment provisions do not apply to termination of services to a dependent person by licensed home care and home health agencies where reasonable notice of termination is given. It is recommended that the Department of Social and Health Services adopt rules establishing procedures for termination of services to dependent persons.

Second Substitute Bill Compared to Original Bill: The original bill created a separate crime of abandonment of a dependent person which was similar to the crime of criminal mistreatment third degree created by the substitute, except that it did not specify that a risk of harm must occur.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Withholding medicine, food or health care from a dependent person can have serious consequences. The bill holds caregivers accountable for failure to provide basic necessities to a dependent person when that failure puts the dependent person at risk of harm.

Testimony Against: None.

Testified: PRO: Senator Fraser, prime sponsor; Cheryl Metcalf, WA Assembly of Citizens With Disabilities; Mark Lundgren, Cathy Langiewicz, Margaret Casey, WA State Chore and Home Care Coalition.