

HOUSE BILL ANALYSIS

SSB 6382

Brief Description: Protecting dependent persons.

Sponsors: Senator Thibaudeau and McCaslin.

Hearing: February 25, 2000.

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

BACKGROUND:

There are two degrees of the crime of criminal mistreatment. The first degree offense, a class B felony, is committed when 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 with the basic necessities of life, recklessly causes great bodily harm to the child or dependent person by withholding the basic necessities of life.

Criminal mistreatment in the second degree, a class C felony, involves recklessly creating an imminent and substantial risk of death or great bodily harm, or recklessly causes substantial bodily harm by withholding the basic necessities of life.

Basic necessities of life means food, water, shelter, clothing, and medical care necessary to health. Dependent person means a person who, because of physical or mental disability or extreme advanced age, is dependent upon another person to provide the basic necessities of life.

The crimes of criminal mistreatment do not apply to (a) the decision to withdraw life support systems; and (b) situations when a terminally ill person requests palliative care and such care is received from a licensed home health agency, hospice agency, nursing home, or hospital providing care under the direction of a physician.

The Natural Death Act authorizes a person to execute a directive to withhold or withdraw

life-sustaining treatment if the person is in a terminal condition or a permanent unconscious condition.

SUMMARY OF BILL:

A new crime of criminal mistreatment in the third degree is created as a gross misdemeanor. Criminal mistreatment in the third degree requires only that the parent or person entrusted with the care of a child or dependent person act with criminal negligence, as opposed to recklessness, and: (a) creates an imminent and substantial risk of substantial bodily harm by withholding any of the basic necessities of life; or (b) causes substantial bodily harm to the child or dependent person by withholding any of the basic necessities of life.

The offense of criminal mistreatment does not apply to situations involving the lawful withdrawing of life support or providing palliative care. In addition, the palliative care exemption is amended to include permanently unconscious persons and to define the terms "terminally ill" and "permanently unconscious" by referencing the Natural Death Act.

FISCAL NOTE: Requested on February 17, 2000.

EFFECTIVE DATE: Ninety days after adjournment of a session in which bill is passed.