

SENATE BILL REPORT

ESHB 1080

As Reported By Senate Committee On:
Judiciary, February 22, 2006

Title: An act relating to protecting dependent persons by changing the crimes of criminal mistreatment and abandonment of a dependent person.

Brief Description: Protecting dependent persons.

Sponsors: House Committee on Criminal Justice & Corrections (originally sponsored by Representatives McDonald, O'Brien and Morrell).

Brief History: Passed House: 1/18/06, 96-0.

Committee Activity: Judiciary: 2/15/06, 2/22/06 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: A person commits criminal mistreatment if he or she is the parent of a child, is a person entrusted with the physical custody of a child or dependent person, or is employed to provide a child or dependent person with the basic necessities of life; and withholds the basic necessities of life from the child or dependent person. There are four degrees of criminal mistreatment. Criminal mistreatment in the first degree is committed if the offender recklessly causes great bodily harm to the child or dependent person. It is a class B felony ranked at level of V (6 to 12 months incarceration for a first offense). Criminal mistreatment in the second degree is committed if an offender recklessly creates an imminent and substantial risk of death or great bodily harm or recklessly causes substantial bodily harm. It is a class C felony ranked at level of III (1 to 3 months incarceration for a first offense).

A person commits abandonment of a dependent person if he or she is the parent of a child, is a person entrusted with the physical custody of a child or dependent person, or is employed to provide a child or dependent person with the basic necessities of life; and abandons the dependent person. There are three degrees of abandonment of a dependent person. Abandonment of a dependent person in the first degree is committed if the offender recklessly causes great bodily harm. It is a class B felony ranked at level of V (6 to 12 months incarceration for a first offense). Abandonment of a dependent person in the second degree is committed if the offender recklessly creates an imminent and substantial risk of death or great bodily harm or recklessly causes substantial bodily harm. It is a class C felony ranked at level of III (1 to 3 months incarceration for a first offense).

Summary of Amended Bill: The circumstances under which a person can be guilty of criminal mistreatment are expanded to include when a person who has assumed the responsibility to provide a dependent person the basic necessities of life withholds the basic necessities of life. A person may be guilty of abandonment of a dependent person are also expanded to include circumstances in which a person who assumed the responsibility to provide a dependent person the basic necessities of life abandons him or her.

Criminal mistreatment in the first degree and abandonment of a dependent person in the first degree are ranked at level IX (31 to 41 months incarceration for a first offense). Criminal mistreatment in the second degree and abandonment of a dependent person in the second degree are ranked at level V (6 to 12 months for a first offense). Good Samaritans and government agencies that regularly provide care or assistance to dependant persons are provided protection from liability for negligent acts that may rise to the level of criminal mistreatment in the third or fourth degree.

Amended Bill Compared to Original Bill: The amendment is purely technical to update statutes to reflect amendments made in 2005.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: Recent egregious cases point out that the current punishment for these crimes is inadequate. These crimes have been historically undervalued. There have only been 13 cases in the past four years, so the fiscal impact is not great. The "physical custody" element made sense when the statutes only dealt with children; this bill makes the statutes more appropriate for the adult setting as well.

Testimony Against: None.

Who Testified: PRO: Representative McDonald, prime sponsor; Page Ulrey, King County Prosecutor's Office; Cory Nelson, Banchemo Friend Services.