
SUBSTITUTE HOUSE BILL 1080

State of Washington 59th Legislature 2005 Regular Session

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

READ FIRST TIME 02/24/05.

1 AN ACT Relating to protecting dependent persons by changing the
2 crimes of criminal mistreatment and abandonment of a dependent person;
3 amending RCW 9A.42.010, 9A.42.020, 9A.42.030, 9A.42.035, 9A.42.037,
4 9A.42.060, 9A.42.070, and 9A.42.080; reenacting and amending RCW
5 9.94A.515; prescribing penalties; providing an effective date; and
6 declaring an emergency.

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

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

10 As used in this chapter:

11 (1) "Basic necessities of life" means food, water, shelter,
12 clothing, and medically necessary health care, including but not
13 limited to health-related treatment or activities, hygiene, oxygen, and
14 medication.

15 (2)(a) "Bodily injury" means physical pain or injury, illness, or
16 an impairment of physical condition;

17 (b) "Substantial bodily harm" means bodily injury which involves a
18 temporary but substantial disfigurement, or which causes a temporary

1 but substantial loss or impairment of the function of any bodily part
2 or organ, or which causes a fracture of any bodily part;

3 (c) "Great bodily harm" means bodily injury which creates a high
4 probability of death, or which causes serious permanent disfigurement,
5 or which causes a permanent or protracted loss or impairment of the
6 function of any bodily part or organ.

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

8 (4) "Dependent person" means a person who, because of physical or
9 mental disability, or because of extreme advanced age, is dependent
10 upon another person to provide the basic necessities of life. A
11 resident of a nursing home, as defined in RCW 18.51.010, a resident of
12 an adult family home, as defined in RCW 70.128.010, and a frail elder
13 or vulnerable adult, as defined in RCW 74.34.020(~~((+8))~~) (13), is
14 presumed to be a dependent person for purposes of this chapter.

15 (5) "Employed" means hired by a dependent person, another person
16 acting on behalf of a dependent person, or by an organization or
17 governmental entity, to provide to a dependent person any of the basic
18 necessities of life. A person may be "employed" regardless of whether
19 the person is paid for the services or, if paid, regardless of who pays
20 for the person's services.

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

23 (7) "Abandons" means leaving a child or other dependent person
24 without the means or ability to obtain one or more of the basic
25 necessities of life.

26 (8) "Good samaritan" means any individual or group of individuals
27 who: (a) Is not related to the dependent person; (b) voluntarily
28 provides assistance or services of any type to the dependent person;
29 and (c) is not paid or otherwise compensated by the dependent person,
30 the dependent person's family, or the dependent person's estate in
31 exchange for the assistance or services provided.

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

34 (1) A parent of a child, the person entrusted with the physical
35 custody of a child or dependent person, a person who has assumed the
36 responsibility to provide to a dependent person the basic necessities
37 of life, or a person employed to provide to the child or dependent

1 person the basic necessities of life is guilty of criminal mistreatment
2 in the first degree if he or she recklessly, as defined in RCW
3 9A.08.010, causes great bodily harm to a child or dependent person by
4 withholding any of the basic necessities of life.

5 (2) Criminal mistreatment in the first degree is a class B felony.

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

8 (1) A parent of a child, the person entrusted with the physical
9 custody of a child or dependent person, a person who has assumed the
10 responsibility to provide to a dependent person the basic necessities
11 of life, or a person employed to provide to the child or dependent
12 person the basic necessities of life is guilty of criminal mistreatment
13 in the second degree if he or she recklessly, as defined in RCW
14 9A.08.010, either (a) creates an imminent and substantial risk of death
15 or great bodily harm, or (b) causes substantial bodily harm by
16 withholding any of the basic necessities of life.

17 (2) Criminal mistreatment in the second degree is a class C felony.

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

20 (1) A person is guilty of the crime of criminal mistreatment in the
21 third degree if the person is the parent of a child, is a person
22 entrusted with the physical custody of a child or other dependent
23 person, is a person who has assumed the responsibility to provide to a
24 dependent person the basic necessities of life, or is a person employed
25 to provide to the child or dependent person the basic necessities of
26 life, and either:

27 (a) With criminal negligence, creates an imminent and substantial
28 risk of substantial bodily harm to a child or dependent person by
29 withholding any of the basic necessities of life; or

30 (b) With criminal negligence, causes substantial bodily harm to a
31 child or dependent person by withholding any of the basic necessities
32 of life.

33 (2) For purposes of this section, "a person who has assumed the
34 responsibility to provide to a dependent person the basic necessities
35 of life" means a person other than: (a) A government agency that

1 regularly provides assistance or services to dependent persons,
2 including but not limited to the department of social and health
3 services; or (b) a good samaritan as defined in RCW 9A.42.010.

4 (3) Criminal mistreatment in the third degree is a gross
5 misdemeanor.

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

8 (1) A person is guilty of the crime of criminal mistreatment in the
9 fourth degree if the person is the parent of a child, is a person
10 entrusted with the physical custody of a child or other dependent
11 person, is a person who has assumed the responsibility to provide to a
12 dependent person the basic necessities of life, or is a person employed
13 to provide to the child or dependent person the basic necessities of
14 life, and either:

15 (a) With criminal negligence, creates an imminent and substantial
16 risk of bodily injury to a child or dependent person by withholding any
17 of the basic necessities of life; or

18 (b) With criminal negligence, causes bodily injury or extreme
19 emotional distress manifested by more than transient physical symptoms
20 to a child or dependent person by withholding the basic necessities of
21 life.

22 (2) For purposes of this section, "a person who has assumed the
23 responsibility to provide to a dependent person the basic necessities
24 of life" means a person other than: (a) A government agency that
25 regularly provides assistance or services to dependent persons,
26 including but not limited to the department of social and health
27 services; or (b) a good samaritan as defined in RCW 9A.42.010.

28 (3) Criminal mistreatment in the fourth degree is a misdemeanor.

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

31 (1) Except as provided in subsection (2) of this section, a person
32 is guilty of the crime of abandonment of a dependent person in the
33 first degree if:

34 (a) The person is the parent of a child, a person entrusted with
35 the physical custody of a child or other dependent person, a person who

1 has assumed the responsibility to provide to a dependent person the
2 basic necessities of life, or a person employed to provide to the child
3 or other dependent person any of the basic necessities of life;

4 (b) The person recklessly abandons the child or other dependent
5 person; and

6 (c) As a result of being abandoned, the child or other dependent
7 person suffers great bodily harm.

8 (2) A parent of a newborn who transfers the newborn to a qualified
9 person at an appropriate location pursuant to RCW 13.34.360 is not
10 subject to criminal liability under this section.

11 (3) Abandonment of a dependent person in the first degree is a
12 class B felony.

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

15 (1) Except as provided in subsection (2) of this section, a person
16 is guilty of the crime of abandonment of a dependent person in the
17 second degree if:

18 (a) The person is the parent of a child, a person entrusted with
19 the physical custody of a child or other dependent person, a person who
20 has assumed the responsibility to provide to a dependent person the
21 basic necessities of life, or a person employed to provide to the child
22 or other dependent person any of the basic necessities of life; and

23 (b) The person recklessly abandons the child or other dependent
24 person; and:

25 (i) As a result of being abandoned, the child or other dependent
26 person suffers substantial bodily harm; or

27 (ii) Abandoning the child or other dependent person creates an
28 imminent and substantial risk that the child or other dependent person
29 will die or suffer great bodily harm.

30 (2) A parent of a newborn who transfers the newborn to a qualified
31 person at an appropriate location pursuant to RCW 13.34.360 is not
32 subject to criminal liability under this section.

33 (3) Abandonment of a dependent person in the second degree is a
34 class C felony.

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

1 (1) Except as provided in subsection (2) of this section, a person
2 is guilty of the crime of abandonment of a dependent person in the
3 third degree if:

4 (a) The person is the parent of a child, a person entrusted with
5 the physical custody of a child or other dependent person, a person who
6 has assumed the responsibility to provide to a dependent person the
7 basic necessities of life, or a person employed to provide to the child
8 or dependent person any of the basic necessities of life; and

9 (b) The person recklessly abandons the child or other dependent
10 person; and:

11 (i) As a result of being abandoned, the child or other dependent
12 person suffers bodily harm; or

13 (ii) Abandoning the child or other dependent person creates an
14 imminent and substantial risk that the child or other person will
15 suffer substantial bodily harm.

16 (2) A parent of a newborn who transfers the newborn to a qualified
17 person at an appropriate location pursuant to RCW 13.34.360 is not
18 subject to criminal liability under this section.

19 (3) Abandonment of a dependent person in the third degree is a
20 gross misdemeanor.

21 **Sec. 9.** RCW 9.94A.515 and 2004 c 176 s 2 and 2004 c 94 s 3 are
22 each reenacted and amended to read as follows:

23 TABLE 2
24 CRIMES INCLUDED WITHIN
25 EACH SERIOUSNESS LEVEL

26	XVI	Aggravated Murder 1 (RCW
27		10.95.020)
28	XV	Homicide by abuse (RCW 9A.32.055)
29		Malicious explosion 1 (RCW
30		70.74.280(1))
31		Murder 1 (RCW 9A.32.030)
32	XIV	Murder 2 (RCW 9A.32.050)
33		Trafficking 1 (RCW 9A.40.100(1))
34	XIII	Malicious explosion 2 (RCW
35		70.74.280(2))

1 Malicious placement of an explosive 1
2 (RCW 70.74.270(1))
3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Malicious placement of an imitation
6 device 1 (RCW 70.74.272(1)(a))
7 Rape 1 (RCW 9A.44.040)
8 Rape of a Child 1 (RCW 9A.44.073)
9 Trafficking 2 (RCW 9A.40.100(2))
10 XI Manslaughter 1 (RCW 9A.32.060)
11 Rape 2 (RCW 9A.44.050)
12 Rape of a Child 2 (RCW 9A.44.076)
13 X Child Molestation 1 (RCW 9A.44.083)
14 Indecent Liberties (with forcible
15 compulsion) (RCW
16 9A.44.100(1)(a))
17 Kidnapping 1 (RCW 9A.40.020)
18 Leading Organized Crime (RCW
19 9A.82.060(1)(a))
20 Malicious explosion 3 (RCW
21 70.74.280(3))
22 Sexually Violent Predator Escape
23 (RCW 9A.76.115)
24 IX Abandonment of Dependent Person 1
25 (RCW 9A.42.060)
26 Assault of a Child 2 (RCW 9A.36.130)
27 Criminal Mistreatment 1 (RCW
28 9A.42.020)
29 Explosive devices prohibited (RCW
30 70.74.180)
31 Hit and Run--Death (RCW
32 46.52.020(4)(a))
33 Homicide by Watercraft, by being
34 under the influence of intoxicating
35 liquor or any drug (RCW
36 79A.60.050)

1 Inciting Criminal Profiteering (RCW
2 9A.82.060(1)(b))
3 Malicious placement of an explosive 2
4 (RCW 70.74.270(2))
5 Robbery 1 (RCW 9A.56.200)
6 Sexual Exploitation (RCW 9.68A.040)
7 Vehicular Homicide, by being under
8 the influence of intoxicating
9 liquor or any drug (RCW
10 46.61.520)
11 VIII Arson 1 (RCW 9A.48.020)
12 Homicide by Watercraft, by the
13 operation of any vessel in a
14 reckless manner (RCW
15 79A.60.050)
16 Manslaughter 2 (RCW 9A.32.070)
17 Promoting Prostitution 1 (RCW
18 9A.88.070)
19 Theft of Ammonia (RCW 69.55.010)
20 Vehicular Homicide, by the operation
21 of any vehicle in a reckless
22 manner (RCW 46.61.520)
23 VII Burglary 1 (RCW 9A.52.020)
24 Child Molestation 2 (RCW 9A.44.086)
25 Civil Disorder Training (RCW
26 9A.48.120)
27 Dealing in depictions of minor
28 engaged in sexually explicit
29 conduct (RCW 9.68A.050)
30 Drive-by Shooting (RCW 9A.36.045)
31 Homicide by Watercraft, by disregard
32 for the safety of others (RCW
33 79A.60.050)
34 Indecent Liberties (without forcible
35 compulsion) (RCW 9A.44.100(1)
36 (b) and (c))

1 Introducing Contraband 1 (RCW
2 9A.76.140)
3 Malicious placement of an explosive 3
4 (RCW 70.74.270(3))
5 Sending, bringing into state depictions
6 of minor engaged in sexually
7 explicit conduct (RCW
8 9.68A.060)
9 Unlawful Possession of a Firearm in
10 the first degree (RCW
11 9.41.040(1))
12 Use of a Machine Gun in Commission
13 of a Felony (RCW 9.41.225)
14 Vehicular Homicide, by disregard for
15 the safety of others (RCW
16 46.61.520)
17 VI Bail Jumping with Murder 1 (RCW
18 9A.76.170(3)(a))
19 Bribery (RCW 9A.68.010)
20 Incest 1 (RCW 9A.64.020(1))
21 Intimidating a Judge (RCW
22 9A.72.160)
23 Intimidating a Juror/Witness (RCW
24 9A.72.110, 9A.72.130)
25 Malicious placement of an imitation
26 device 2 (RCW 70.74.272(1)(b))
27 Rape of a Child 3 (RCW 9A.44.079)
28 Theft of a Firearm (RCW 9A.56.300)
29 Unlawful Storage of Ammonia (RCW
30 69.55.020)
31 V ~~((Abandonment of dependent person 1-~~
32 ~~(RCW 9A.42.060)))~~
33 Abandonment of Dependent Person 2
34 (RCW 9A.42.070)
35 Advancing money or property for
36 extortionate extension of credit
37 (RCW 9A.82.030)

1 Bail Jumping with class A Felony
2 (RCW 9A.76.170(3)(b))
3 Child Molestation 3 (RCW 9A.44.089)
4 (~~Criminal Mistreatment 1 (RCW~~
5 ~~9A.42.020))~~
6 Criminal Mistreatment 2 (RCW
7 9A.42.030)
8 Custodial Sexual Misconduct 1 (RCW
9 9A.44.160)
10 Domestic Violence Court Order
11 Violation (RCW 10.99.040,
12 10.99.050, 26.09.300, 26.10.220,
13 26.26.138, 26.50.110, 26.52.070,
14 or 74.34.145)
15 Extortion 1 (RCW 9A.56.120)
16 Extortionate Extension of Credit
17 (RCW 9A.82.020)
18 Extortionate Means to Collect
19 Extensions of Credit (RCW
20 9A.82.040)
21 Incest 2 (RCW 9A.64.020(2))
22 Kidnapping 2 (RCW 9A.40.030)
23 Perjury 1 (RCW 9A.72.020)
24 Persistent prison misbehavior (RCW
25 9.94.070)
26 Possession of a Stolen Firearm (RCW
27 9A.56.310)
28 Rape 3 (RCW 9A.44.060)
29 Rendering Criminal Assistance 1
30 (RCW 9A.76.070)
31 Sexual Misconduct with a Minor 1
32 (RCW 9A.44.093)
33 Sexually Violating Human Remains
34 (RCW 9A.44.105)
35 Stalking (RCW 9A.46.110)
36 Taking Motor Vehicle Without
37 Permission 1 (RCW 9A.56.070)

1 IV Arson 2 (RCW 9A.48.030)
2 Assault 2 (RCW 9A.36.021)
3 Assault by Watercraft (RCW
4 79A.60.060)
5 Bribing a Witness/Bribe Received by
6 Witness (RCW 9A.72.090,
7 9A.72.100)
8 Cheating 1 (RCW 9.46.1961)
9 Commercial Bribery (RCW
10 9A.68.060)
11 Counterfeiting (RCW 9.16.035(4))
12 Endangerment with a Controlled
13 Substance (RCW 9A.42.100)
14 Escape 1 (RCW 9A.76.110)
15 Hit and Run--Injury (RCW
16 46.52.020(4)(b))
17 Hit and Run with Vessel--Injury
18 Accident (RCW 79A.60.200(3))
19 Identity Theft 1 (RCW 9.35.020(2))
20 Indecent Exposure to Person Under
21 Age Fourteen (subsequent sex
22 offense) (RCW 9A.88.010)
23 Influencing Outcome of Sporting
24 Event (RCW 9A.82.070)
25 Malicious Harassment (RCW
26 9A.36.080)
27 Residential Burglary (RCW
28 9A.52.025)
29 Robbery 2 (RCW 9A.56.210)
30 Theft of Livestock 1 (RCW 9A.56.080)
31 Threats to Bomb (RCW 9.61.160)
32 Trafficking in Stolen Property 1 (RCW
33 9A.82.050)
34 Unlawful factoring of a credit card or
35 payment card transaction (RCW
36 9A.56.290(4)(b))

1 Unlawful transaction of health
2 coverage as a health care service
3 contractor (RCW 48.44.016(3))
4 Unlawful transaction of health
5 coverage as a health maintenance
6 organization (RCW 48.46.033(3))
7 Unlawful transaction of insurance
8 business (RCW 48.15.023(3))
9 Unlicensed practice as an insurance
10 professional (RCW 48.17.063(3))
11 Use of Proceeds of Criminal
12 Profiteering (RCW 9A.82.080 (1)
13 and (2))
14 Vehicular Assault, by being under the
15 influence of intoxicating liquor or
16 any drug, or by the operation or
17 driving of a vehicle in a reckless
18 manner (RCW 46.61.522)
19 Willful Failure to Return from
20 Furlough (RCW 72.66.060)
21 III ((~~Abandonment of dependent person 2-~~
22 ~~(RCW 9A.42.070))~~))
23 Assault 3 (RCW 9A.36.031)
24 Assault of a Child 3 (RCW 9A.36.140)
25 Bail Jumping with class B or C Felony
26 (RCW 9A.76.170(3)(c))
27 Burglary 2 (RCW 9A.52.030)
28 Communication with a Minor for
29 Immoral Purposes (RCW
30 9.68A.090)
31 Criminal Gang Intimidation (RCW
32 9A.46.120)
33 ((~~Criminal Mistreatment 2 (RCW-~~
34 ~~9A.42.030))~~))
35 Custodial Assault (RCW 9A.36.100)

1 Cyberstalking (subsequent conviction
2 or threat of death) (RCW
3 9.61.260(3))
4 Escape 2 (RCW 9A.76.120)
5 Extortion 2 (RCW 9A.56.130)
6 Harassment (RCW 9A.46.020)
7 Intimidating a Public Servant (RCW
8 9A.76.180)
9 Introducing Contraband 2 (RCW
10 9A.76.150)
11 Malicious Injury to Railroad Property
12 (RCW 81.60.070)
13 Patronizing a Juvenile Prostitute
14 (RCW 9.68A.100)
15 Perjury 2 (RCW 9A.72.030)
16 Possession of Incendiary Device (RCW
17 9.40.120)
18 Possession of Machine Gun or Short-
19 Barreled Shotgun or Rifle (RCW
20 9.41.190)
21 Promoting Prostitution 2 (RCW
22 9A.88.080)
23 Securities Act violation (RCW
24 21.20.400)
25 Tampering with a Witness (RCW
26 9A.72.120)
27 Telephone Harassment (subsequent
28 conviction or threat of death)
29 (RCW 9.61.230(2))
30 Theft of Livestock 2 (RCW 9A.56.083)
31 Trafficking in Stolen Property 2 (RCW
32 9A.82.055)
33 Unlawful Imprisonment (RCW
34 9A.40.040)
35 Unlawful possession of firearm in the
36 second degree (RCW 9.41.040(2))

1 Vehicular Assault, by the operation or
2 driving of a vehicle with disregard
3 for the safety of others (RCW
4 46.61.522)
5 Willful Failure to Return from Work
6 Release (RCW 72.65.070)
7 II Computer Trespass 1 (RCW
8 9A.52.110)
9 Counterfeiting (RCW 9.16.035(3))
10 Escape from Community Custody
11 (RCW 72.09.310)
12 Health Care False Claims (RCW
13 48.80.030)
14 Identity Theft 2 (RCW 9.35.020(3))
15 Improperly Obtaining Financial
16 Information (RCW 9.35.010)
17 Malicious Mischief 1 (RCW
18 9A.48.070)
19 Possession of Stolen Property 1 (RCW
20 9A.56.150)
21 Theft 1 (RCW 9A.56.030)
22 Theft of Rental, Leased, or Lease-
23 purchased Property (valued at one
24 thousand five hundred dollars or
25 more) (RCW 9A.56.096(5)(a))
26 Trafficking in Insurance Claims (RCW
27 48.30A.015)
28 Unlawful factoring of a credit card or
29 payment card transaction (RCW
30 9A.56.290(4)(a))
31 Unlawful Practice of Law (RCW
32 2.48.180)
33 Unlicensed Practice of a Profession or
34 Business (RCW 18.130.190(7))
35 I Attempting to Elude a Pursuing Police
36 Vehicle (RCW 46.61.024)

1 False Verification for Welfare (RCW
2 74.08.055)
3 Forgery (RCW 9A.60.020)
4 Fraudulent Creation or Revocation of a
5 Mental Health Advance Directive
6 (RCW 9A.60.060)
7 Malicious Mischief 2 (RCW
8 9A.48.080)
9 Mineral Trespass (RCW 78.44.330)
10 Possession of Stolen Property 2 (RCW
11 9A.56.160)
12 Reckless Burning 1 (RCW 9A.48.040)
13 Taking Motor Vehicle Without
14 Permission 2 (RCW 9A.56.075)
15 Theft 2 (RCW 9A.56.040)
16 Theft of Rental, Leased, or Lease-
17 purchased Property (valued at two
18 hundred fifty dollars or more but
19 less than one thousand five
20 hundred dollars) (RCW
21 9A.56.096(5)(b))
22 Transaction of insurance business
23 beyond the scope of licensure
24 (RCW 48.17.063(4))
25 Unlawful Issuance of Checks or Drafts
26 (RCW 9A.56.060)
27 Unlawful Possession of Fictitious
28 Identification (RCW 9A.56.320)
29 Unlawful Possession of Instruments of
30 Financial Fraud (RCW
31 9A.56.320)
32 Unlawful Possession of Payment
33 Instruments (RCW 9A.56.320)
34 Unlawful Possession of a Personal
35 Identification Device (RCW
36 9A.56.320)

1 Unlawful Production of Payment
2 Instruments (RCW 9A.56.320)
3 Unlawful Trafficking in Food Stamps
4 (RCW 9.91.142)
5 Unlawful Use of Food Stamps (RCW
6 9.91.144)
7 Vehicle Prowl 1 (RCW 9A.52.095)

8 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and takes effect
11 July 1, 2005.

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