

SENATE BILL REPORT

SB 5059

As Reported by Senate Committee On:
Law & Justice, February 8, 2013

Title: An act relating to rendering criminal assistance.

Brief Description: Concerning the crime of rendering criminal assistance.

Sponsors: Senators Carrell, Hewitt, Pearson, Roach, Delvin, Benton, Hargrove, Harper and Shin.

Brief History:

Committee Activity: Law & Justice: 1/28/13, 2/04/13, 2/08/13 [DP, DNP, w/oRec].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Kohl-Welles, Pearson and Roach.

Minority Report: Do not pass.

Signed by Senator Kline, Ranking Member.

Minority Report: That it be referred without recommendation.

Signed by Senator Darneille.

Staff: Aldo Melchiori (786-7439)

Background:

- A person renders criminal assistance if, with intent to prevent, hinder, or delay the apprehension or prosecution of another person who is known by the individual to have committed a crime or juvenile offense, is being sought by law enforcement officials for the commission of a crime or juvenile offense, or has escaped from a detention facility, the individual:
 - harbors or conceals the person;
 - warns the person;
 - provides the person with money, transportation, disguise, or other means of avoiding discovery or apprehension;
 - prevents or obstructs, by use of force, deception, or threat, anyone from performing an act that might aid in the discovery or apprehension of the person;

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- conceals, alters, or destroys any physical evidence that might aid in the discovery or apprehension of the person; or
- provides the person with a weapon.

It is considered rendering criminal assistance in the first degree if assistance is given to a person who has committed any class A felony. This is a class B felony ranked at level V on the sentencing grid, unless the assistor is a relative under the age of 18 at the time of the offense, in which case it is a gross misdemeanor. Rendering criminal assistance in the second degree is committed if assistance is given to a person who has committed any class B or C felony or is being sought for a violation of parole, probation, or community supervision. This is a gross misdemeanor, unless the assistor is a relative, in which case it is a misdemeanor. If the person who is rendered assistance has committed a misdemeanor or gross misdemeanor, the person giving assistance can be charged with rendering criminal assistance in the third degree, which is a misdemeanor.

A court can impose a sentence above or below the standard sentence range delineated in the Sentencing Reform Act if aggravating or mitigating circumstances are properly brought and proven. Those aggravating circumstances that must be considered by the jury must be proven beyond a reasonable doubt. The court considers and may find mitigating circumstances by a preponderance of the evidence.

Summary of Bill: It is not a defense to rendering criminal assistance, in that the person did not have specific knowledge of the underlying crime committed by the person receiving assistance, or that the knowledge was based upon secondhand information. During sentencing for the offense of rendering criminal assistance in the first degree, when an aggravating or mitigating circumstance is alleged, a victim of the offense includes the victim or victims of the underlying crime committed by the person to whom criminal assistance was rendered.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This will clarify the law so that people can be held accountable for their actions. The bill brings the statute into alignment with case law. The offense is based upon the underlying crime, so any aggravating circumstance should be as well.

CON: The bill loses sight of the fact that the state must prove the mental state of the defendant. The level of punishment must be tied to the defendant's knowledge. This blurs the line between rendering criminal assistance and accomplice liability.

Persons Testifying: PRO: Senator Carrell, prime sponsor; Tom McBride, WA Assn. of Prosecuting Attorneys; Tom Drury, Chief Deputy of Kitsap County, Prosecuting Attorney.

CON: Gregory Linh, WA Defenders Assn., WA Assn. of Criminal Defense Lawyers.