

# HOUSE BILL REPORT

## ESHB 1234

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### As Passed House:

March 5, 2009

**Title:** An act relating to creating the new crime of abandonment of a dependent person in the fourth degree.

**Brief Description:** Creating the new crime of abandonment of a dependent person in the fourth degree.

**Sponsors:** House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Morrell, O'Brien, Appleton, Kelley, Ericks, Lias, Pedersen, Williams, Kenney and Moeller).

### Brief History:

#### Committee Activity:

Public Safety & Emergency Preparedness: 1/28/09, 2/17/09 [DPS].

#### Floor Activity

Passed House: 3/5/09, 70-27.

### Brief Summary of Engrossed Substitute Bill

- Creates the simple misdemeanor crime of abandonment of a dependent person in the fourth degree.

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## HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Goodman, Kirby and Ross.

**Staff:** Lara Zarowsky (786-7123)

### Background:

In general, a person commits abandonment of a dependent person if he or she:

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- 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.

The penalty for abandonment of a dependent person depends on the intent of the perpetrator and the harm caused to the victim.

- It is abandonment of a dependent person in the **first degree** if the perpetrator recklessly causes great bodily harm. This is a class B felony with a seriousness level of V.
- It is abandonment of a dependent person in the **second degree** if the perpetrator recklessly creates an imminent and substantial risk of death or great bodily harm *or* recklessly causes substantial bodily harm. This is a class C felony with a seriousness level of III.
- It is abandonment of a dependent person in the **third degree** if the perpetrator recklessly creates an imminent and substantial risk of substantial bodily harm. This is a gross misdemeanor.

All degrees of the crime of abandonment of a dependent person provide that the parent of a newborn who transfers the newborn to a qualified person under the Juvenile Court Act is not subject to criminal liability.

**Summary of Engrossed Substitute Bill:**

The crime of abandonment of a dependent person in the fourth degree is created. The crime is a simple misdemeanor. A person commits abandonment of a dependent person in the fourth degree if he or she:

- is the parent of a child under the age of eight, is a person entrusted with the physical custody of a child under the age of eight or other dependent person, or is employed to provide a child under the age of eight or other dependent person with the basic necessities of life;
- with criminal negligence abandons the child who is under the age of eight or other dependent person; and
- as a result of being abandoned, an imminent and substantial risk of bodily harm to the child or dependent person is created; or bodily harm or extreme emotional distress manifested by more than transient physical symptoms is caused.

The parent of a newborn who transfers the newborn to a qualified person under the Juvenile Court Act is not subject to criminal liability under the bill.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Several unfortunate incidents of abandonment have resulted in this legislation. Under the existing statutes, it has been difficult for the prosecutors to charge crimes that fit conduct where parents leave their very young children alone at home, because bodily harm or the risk of substantial bodily harm are difficult to prove in those cases. This bill will require only a risk of bodily harm and basically send the message that if there is a risk a child will be injured, you can't leave them home alone. The Long Term Care Ombudsman Program has seen an increase in the number of older disabled or frail adults who are abandoned. The law should also criminalize abandonment by caretakers. This conduct needs to be punished as a crime instead of a civil infraction because it is very serious and that message should be sent to the public.

(Opposed) None.

**Persons Testifying:** Representative Morrell, prime sponsor; Ryan Portmann, Puyallup Police Department; Louise Ryan, Long Term Care Ombudsman Program Multi-Service Center; and Steve Kirkclic, City of Puyallup.

**Persons Signed In To Testify But Not Testifying:** None.