

FINAL BILL REPORT

2SSB 5417

C 302 L 96

Synopsis as Enacted

Brief Description: Revising penalties for criminal mistreatment.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Fraser, Winsley, Wojahn, Oke and Kohl).

Senate Committee on Law & Justice

House Committee on Law & Justice

Background: Persons with disabilities often rely on caregivers to assist them in daily living activities, such as dressing, personal hygiene, taking medication, and preparing meals. If a caregiver abandons the disabled person or refuses to assist him or her, the person can be left helpless.

Under current law, a person entrusted with the physical custody of a dependent person may be charged with criminal mistreatment for withholding any of the basic necessities of life. The basic necessities of life are defined as food, shelter, clothing, and health care. It has been suggested that the criminal mistreatment statutes do not adequately cover situations in which a dependent person is abandoned by a caregiver.

Summary: Three degrees of a new crime of abandonment of a dependent person are created. Abandonment can be committed by a parent, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or other dependent person any of the basic necessities of life. The existing definition of basic necessities of life is expanded to include water, health-related treatment or activities, hygiene, oxygen, and medication.

First degree abandonment, a class B felony, is committed if a person recklessly abandons the child or other dependent person and, as a result, the child or dependent person suffers great bodily harm. For purposes of the Sentencing Reform Act, the crime is ranked at seriousness level V which results in a standard range of 6-12 months for an offender with no prior felonies.

Second degree abandonment, a class C felony, is committed if the person recklessly abandons the child or other dependent person and, as a result, the child or other dependent person suffers substantial bodily harm or the abandonment creates an imminent and substantial risk that the child or dependent person will die or suffer great bodily harm. The crime is ranked at seriousness level III which results in a first offense range of 1-3 months.

Third degree abandonment, a gross misdemeanor, is committed if the person recklessly abandons the child or other dependent person and, as a result, the child or dependent person suffers bodily harm or the abandonment creates an imminent and substantial risk that the child or other person will suffer substantial bodily harm.

The term "abandons" means leaving a child or other dependent person without the means or ability to obtain one or more of the basic necessities of life. "Employed" means hired by a dependent person, or a person or organization acting on behalf of the dependent person. A person may be "employed" regardless of whether the person is paid for the services, or if paid, regardless of who pays for the person's services.

It is an affirmative defense to abandonment that the person employed to provide any of the basic necessities of life to the child or other dependent person gives reasonable notice of termination of services. The Department of Social and Health Services and the Department of Health are required to adopt rules establishing procedures for termination of services to children and other dependent persons.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	46	0	(Senate concurred)

Effective: June 6, 1996