

HOUSE BILL REPORT

SSB 6382

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to dependent persons.

Brief Description: Protecting dependent persons.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Thibaudeau, McCaslin, Long, Costa, Winsley, Rasmussen, Kohl-Welles and McAuliffe; by request of Attorney General).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/25/00 [DP].

Brief Summary of Substitute Bill

- Creates a new crime of criminal mistreatment in the third degree.
- Criminal mistreatment in the third degree is a gross misdemeanor.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Yvonne Walker (786-7841).

Background:

There are two degrees of the crime of criminal mistreatment. The first degree offense, a class B felony, is committed when a parent of a child, a person entrusted with the physical custody of a child or dependent person, or a person employed to provide a child or dependent person with the basic necessities of life, recklessly causes great bodily harm to the child or dependent person by withholding the basic necessities of life.

Criminal mistreatment in the second degree, a class C felony, involves recklessly creating an imminent and substantial risk of death or great bodily harm, or recklessly causing substantial bodily harm by withholding the basic necessities of life.

Basic necessities of life means: food, water, shelter, clothing, and medical care necessary to health. Dependent person means a person who, because of physical or mental disability or extreme advanced age, is dependent upon another person to provide the basic necessities of life.

The crimes of criminal mistreatment do not apply to (a) the decision to withdraw life support systems; and (b) situations when a terminally ill person requests palliative care and such care is received from a licensed home health agency, hospice agency, nursing home, or hospital providing care under the direction of a physician.

The Natural Death Act authorizes a person to execute a directive to withhold or withdraw life-sustaining treatment if the person is in a terminal condition or a permanent unconscious condition.

Summary of Bill:

A new crime of criminal mistreatment in the third degree is created as a gross misdemeanor. Criminal mistreatment in the third degree requires only that the parent or person entrusted with the care of a child or dependent person act with criminal negligence, as opposed to recklessness, and: (a) creates an imminent and substantial risk of substantial bodily harm by withholding any of the basic necessities of life; or (b) causes substantial bodily harm to the child or dependent person by withholding any of the basic necessities of life.

The offense of criminal mistreatment does not apply to situations involving the lawful withdrawing of life support or providing palliative care. In addition, the palliative care exemption is amended to include permanently unconscious persons and to define the terms "terminally ill" and "permanently unconscious" by referencing the Natural Death Act.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill provides greater protections for our vulnerable adults. One complaint from the industries is, that if the Legislature passes this bill, it is going to

be difficult for them to find employees. However, this bill does not penalize accidents, it penalizes and criminalizes criminal negligence. This bill helps to ensure that the safety of vulnerable adults is protected. This bill is needed because there is a handful of "bad care givers" and we need them out of our system and held accountable for their actions.

We hold people accountable when they do not feed or take care of their animals, but we do not hold people accountable when they are charged with taking care of disabled people.

Testimony Against: None.

Testified: Senator Thibaudeau, prime sponsor; Scott Blonien, Attorney General's Office; Janet Adams, ARC of Washington; Melissa DeGroff, Attorney General's Office; Kyre Hyre, LTC Ombudsman; and Donna Patrick, Development Disable Council.