

Criminal Justice & Corrections

HB 1238

Brief Description: *Criminalizing failure to summon assistance.*

Sponsors: *Representatives Miloscia, Mitchell, Keiser and O'Brien.*

Brief Summary of Bill

- *Creates an act called the Joey Levick Act.*
- *Creates a new crime called failing to summon assistance– which is a misdemeanor.*
- *Rendering criminal assistance in the first degree is a class C felony if the crime the offender committed is a class A felony.*
- *Rendering criminal assistance in the second degree is a gross misdemeanor when the crime the offender committed is a class B or C felony.*

Hearing Date: *2/2/01*

Staff: *Yvonne Walker (786-7841).*

Background:

Duty to rescue a victim.

The question of whether a person should be legally obligated to rescue another person in distress has troubled courts, Legislatures, legal scholars, and others for quite awhile.

Under common law, a person generally has no duty to rescue another person in distress. An exception to this rule is when a special relationship exists between the parties and that

relationship creates a duty to assist. For example, a special relationship was found to exist in one Washington case when the state undertook to render aid to avalanche victims but failed to follow through with the proper warning.

Some statutes in Washington have departed from common law in limited ways and have established an affirmative duty to assist another. One example is the duty to report suspected child abuse or neglect. Another is to report child pornography film that is presented for developing. A third is to summon aid for a peace officer when requested. A violation of any of these statutes carries criminal penalties.

Duty to rescue statutes exist in 13 European countries. In addition, since 1968, four states have enacted duty-to-rescue statutes: Vermont, Minnesota, Rhode Island, and Massachusetts. The penalties are generally either a fine, a limited possible term of confinement (up to one year), or both. In fact, in a California case, the California Supreme Court, in absence of a statute, created a special relationship between the psychotherapist of a psychotic patient and the patient's foreseeable victims.

One concern that has been raised about duty-to-rescue statutes is that a Good Samaritan is often subject to a lawsuit when something goes wrong during the rescue attempt and the victim sustains injuries or dies. State statute protects a person from civil liability for damages resulting in acts or omissions while rendering aid to an injured person in an emergency provided the person is doing so without compensation and acts without gross negligence or wanton misconduct.

Rendering criminal assistance.

A person commits the crime of rendering criminal assistance if the person, in any of a variety of ways, tries to hinder the apprehension or prosecution of a person who has committed an offense.

The ways in which a person may commit the crime include the following: harboring or concealing the offender; warning the offender of impending apprehension; giving the offender money, transportation, or disguise; committing an act of force, threat, or deception to prevent apprehension; concealing, altering, or destroying physical evidence; and giving the offender a weapon.

Failing to assist a victim of the offender's crime is not listed as one of the ways in which a person may commit the crime of rendering criminal assistance.

Rendering criminal assistance is a class C felony if the person is not related to the offender and the crime the offender committed is a class A felony. The crime is a gross misdemeanor when the person is related to the offender. Rendering criminal assistance is a gross misdemeanor if the person is not related to the offender and the crime the offender committed is a class B or C felony. If the person is a relative the crime is a misdemeanor.

A relative– is defined as a person who is related as husband, wife, brother, sister, parent, grandparent, child, grandchild, step child, or step parent to the person to whom criminal assistance is rendered.

Summary of Bill:

The act is known as the Joey Levick Act.

Duty to rescue a victim.

A new crime of failing to summon assistance– is created.

A person is guilty of the new crime if the person knows that another person (victim) has suffered substantial bodily harm and needs help; the person could reasonably summon assistance (i.e. help) to the victim without placing himself or herself in danger and without interfering with a duty the person owes to a third party; the person fails to summon assistance for the victim; and another person is not summoning assistance for the victim.

A person satisfies the requirement to summon assistance by seeking emergency aid (e.g. police, fire, or medical attention) that identifies the location of the victim. A violation is a misdemeanor that carries a maximum jail term of 90 days, a \$1,000 fine or both.

Rendering criminal assistance.

A person commits the crime of rendering criminal assistance if the person fails to summon assistance for a victim of an offense to prevent the apprehension or prosecution of the perpetrator.

Any person who commits the crime of rendering criminal assistance in the first degree is guilty of a class C felony, if the crime the offender commits or is being sought for is any class A felony or an equivalent juvenile offense. A person is guilty of rendering criminal assistance in the second degree, a gross misdemeanor, when the crime the offender commits is a class B or C felony or an equivalent juvenile offense or a violation of parole, probation, or community supervision.

A class C felony is a crime that carries a maximum prison term or five years, a \$10,000 fine, or both. A gross misdemeanor is a crime that carries a maximum jail term of one year, a \$5,000 fine, or both.

The definition of relative is repealed.

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

Appropriation: *None.*

Fiscal Note: *Available.*

