

HOUSE BILL REPORT

HB 2324

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to protecting children and dependent persons.

Brief Description: Making it a crime to fail to protect children and dependent persons.

Sponsors: Representatives Hatfield, Doumit, Kessler, Kirby, Edwards and Orcutt.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/25/02, 2/8/02 [DPS].

Brief Summary of Substitute Bill

- Imposes a duty upon a parent, stepparent, foster parent, or guardian to aid a child or dependent person who is being sexually abused, or assaulted.
- Imposes criminal sanctions upon a person who fails to make a reasonable effort to meet this duty.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi, Kirby and Morell.

Staff: Jim Morishima (786-7191).

Background:

Several crimes exist regarding failing to render aid to another person. For example, a person who witnesses a violent offense, a sexual offense, or an assault of a child and fails to notify the prosecuting attorney, law enforcement, medical assistance, or other public officials is guilty of a gross misdemeanor. Furthermore, certain professionals and adults living with children must report occurrences of child abuse. Failure to report such abuse is a gross misdemeanor.

There are also several crimes that exist regarding the mistreatment of children and

dependent adults. For example, a person who recklessly causes great bodily harm to a child or dependent person under his or her care by withholding the basic necessities of life is guilty of a class A felony (seriousness level V). Furthermore, a person who creates an imminent and substantial risk of death or great bodily harm, or causes substantial bodily harm by withholding the basic necessities of life, to a child or dependent person under his or her care is guilty of a class C felony (seriousness level III).

Summary of Substitute Bill:

A parent, stepparent, foster parent, or guardian, entrusted with the physical custody of a child under 10 years of age or dependent person has a duty to aid the child or dependent person if he or she is being physically assaulted, or sexually abused by another. The scope of the duty is determined by the circumstances known by the person at the time.

A parent, stepparent, foster parent, or guardian, entrusted with the physical custody of a child or dependent person who does not make a reasonable effort to render such aid, is guilty of an unranked class C felony. This does not obligate the parent, stepparent, foster parent, or guardian to perform any action that a reasonable person would believe would place the person or another person in danger of bodily injury, or to perform any action where the person who has assaulted or sexually abused the child has used a threat to induce the other person to not report the assault or abuse or otherwise not come to the aid of the child.

"Aid" is defined as to assist or to give help or relief. The term includes, but is not limited to, contacting police, law enforcement, or other public officials, preventing abuse and neglect, preventing physical assault, or procuring medical assistance.

Substitute Bill Compared to Original Bill:

The substitute imposes the duty to aid a child under 10 years of age, instead of a child under 18 years of age. The substitute removes language imposing the duty on "other individuals" who have been entrusted with the custody of a child or dependent person. The substitute imposes the duty to aid a child or dependent person being physically assaulted or sexually abused. The original bill imposed the duty for physical assault, abuse, or neglect. The substitute clarifies that the duty does not require the performance of any action that a reasonable person would believe would place the person or another person in danger of bodily injury, or any action where the person who has assaulted or sexually abused the child, has used a threat to induce the other person to not report the assault or abuse or to otherwise not come to the aid of the child. The original bill clarified that the duty does not require the performance of any action that a reasonable person would believe would place the person or another in danger of immediate substantial bodily harm.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Current statutes covering abuse and neglect does not cover the situation in which a parent or custodian stands by and does nothing while a child or dependent person is abused. This bill will close the loophole and allow such a parent or custodian to be punished.

(Concerns) The bill's duty to "aid" may be too broad. It could apply to foster parents, relatives who care for children, licensed care providers, baby sitters, or even the state when dependent children are placed in the state's care. The risks of this bill may outweigh the benefits. Calling the police does not always help in situations where there is domestic violence; sometimes it leads to a perpetrator retaliating against the person who calls for help. Family relationships can be complex and a parent in an abusive situation may not be able to call for help.

Testimony Against: None.

Testified: (In support) Representative Hatfield, prime sponsor; Sue Baur, Cowlitz County Prosecuting Attorney; and Tom McBride, Washington Association of Prosecuting Attorneys.

(Concerns) Laverne Lamoureux, Children's Administration for Department of Social and Health Services; Sharon Case, Washington State Coalition Against Domestic Violence; and Suzanne Brown, Washington Coalition of Sexual Assault Programs.