

# SENATE BILL REPORT

## SSB 6293

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As Amended by House, March 4, 2010

**Title:** An act relating to rendering criminal assistance in the first degree.

**Brief Description:** Changing provisions relating to rendering criminal assistance in the first degree.

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Brandland and Carrell).

**Brief History:**

**Committee Activity:** Judiciary: 1/20/10, 1/26/10 [DPS].

Passed Senate: 2/11/10, 47-0.

Passed House: 3/04/10, 98-0.

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6293 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Gordon, Hargrove and Roach.

**Staff:** Lidia Mori (786-7755)

**Background:** A person commits the offense of rendering criminal assistance in the first degree when that person provides criminal assistance to a person who has committed, or is being sought for murder in the first degree, any Class A felony, or an equivalent juvenile offense. The criminal assistance must be done with intent to prevent or delay the apprehension or prosecution of a person who that person knows has committed, or is being sought for, the commission of a crime or juvenile offense. Rendering criminal assistance in the first degree is a Class C felony and it is ranked at seriousness level V.

The term criminal assistance is defined as doing any of the following acts, directed at a person who the provider of the assistance knows has committed or is being sought for commission of a crime or juvenile offense: (1) harboring or concealing such a person; (2) warning the person of impending discovery or apprehension; (3) providing money, transportation, disguise, or other means of avoiding discovery or apprehension; (4) preventing or obstructing, by use of force, deception, or threat, anyone from performing an

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act that might aid in discovery or apprehension; (5) concealing or destroying physical evidence that might aid in the apprehension; or (6) providing a weapon to the person.

If the criminal assistance is established by a preponderance of the evidence to have been provided by a relative and it does not fall into the behaviors described above in (4), (5), or (6) then it is a gross misdemeanor. A relative is defined as a person who is related as husband or wife, brother or sister, parent or grandparent, child or grandchild, step-child or step-parent to the person to whom the criminal assistance is rendered.

**Summary of Substitute Bill:** A person is guilty of rendering criminal assistance in the first degree, a Class B felony, if he or she renders criminal assistance to a person who is not a relative and who has committed or is being sought for murder in the first degree or any Class A felony or equivalent juvenile offense. A person is guilty of rendering criminal assistance in the first degree, a Class C felony, if he or she renders criminal assistance to a person who is a relative and has committed or is being sought for murder in the first degree or any Class A felony or equivalent juvenile offense. The criminal assistance provided by the relative must not involve preventing or obstructing, by use of force, deception, or threat, anyone from performing an act that might aid in discovery or apprehension of a person who has committed or is being sought for murder in the first degree, any Class A felony, or an equivalent juvenile offense. The criminal assistance provided by the relative must also not involve concealing or destroying physical evidence that might aid in the apprehension of a person who has committed, or is being sought for, murder in the first degree, any Class A felony, or an equivalent juvenile offense; or involve providing a weapon to that person.

**Appropriation:** None.

**Fiscal Note:** Available on original bill.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill:** PRO: In order to prove the crime of rendering criminal assistance in the first degree, it must be shown that the perpetrator did it with intent *and* knew that the person he or she was assisting had committed or was being sought for murder in the first degree or a Class A felony. If there are extenuating circumstances, such as one involving family, the prosecutor has the discretion to charge a lower offense. By changing the offense from a Class C felony to a Class B felony, the statutory maximums would change. Class C felonies involve a statutory maximum of five years and Class B felonies involve a statutory maximum of ten years. There are some cases of rendering criminal assistance in the first degree that warrant going above 60 months. People should be responsible for their actions, whether or not they're related to the person being assisted.

CON: There should remain a difference in punishment for people who are helping a relative.

**Persons Testifying:** PRO: Senator Brandland, prime sponsor; Tom McBride, Washington Association of Prosecuting Attorneys; Toni McKinley, Washington Coalition of Crime Victim Advocates.

CON: Bob Cooper, Washington Association of Criminal Defense Lawyers, Washington Defender Association.

**House Amendment(s):** Rendering criminal assistance in the 1st degree is a gross misdemeanor if it is established by a preponderance of the evidence that the actor was a juvenile relative. A juvenile relative means a person who was under the age of 18 at the time of the offense and is related to the person to whom the assistance is rendered as husband or wife, brother or sister, parent or grandparent, child or grandchild, stepchild or stepparent.

Rendering criminal assistance in the second degree is a misdemeanor if it is established by a preponderance of the evidence that the actor is a juvenile relative.

The act may be known and cited as Randy's law.