

HOUSE BILL REPORT

SB 5059

As Reported by House Committee On:
Public Safety

Title: An act relating to rendering criminal assistance.

Brief Description: Concerning the crime of rendering criminal assistance.

Sponsors: Senators Carrell, Hewitt, Pearson, Roach, Delvin, Benton, Hargrove, Harper and Shin.

Brief History:

Committee Activity:

Public Safety: 3/26/13, 4/3/13 [DPA].

**Brief Summary of Bill
(As Amended by Committee)**

- Provides that a renderer cannot use as a defense to rendering criminal assistance, that he or she did not have specific knowledge of the underlying crime committed by the offender receiving assistance, or that the knowledge was based upon secondhand information.
- Provides that during sentencing for the offense of Rendering Criminal Assistance in the first degree, when an aggravating or mitigating circumstance is alleged, a victim of the offense includes the victims of the underlying crime committed by the person to whom criminal assistance was rendered.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

Staff: Yvonne Walker (786-7841).

Background:

Rendering Criminal Assistance.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A person is guilty of Rendering Criminal Assistance if he or she, with the intent to interfere with the apprehension or prosecution of another person he or she knows to have committed a crime or to have escaped from a detention facility:

- harbors or conceals the person;
- warns the person of impending discovery or apprehension;
- provides the person with money, transportation, disguise, or other means of avoiding discovery or apprehension;
- prevents or obstructs, by use of force, deception, or threat, anyone from performing an act that might aid in the discovery or apprehension of the person;
- conceals, alters, or destroys any physical evidence that might aid in the discovery or apprehension of the person; or
- provides the person with a weapon.

Rendering Criminal Assistance in the first degree is a seriousness level V, class B felony offense if the crime the offender committed, or is being sought for, is Murder in the first degree or any class A felony offense. The crime is a gross misdemeanor offense when the person is related to the offender and such person is under the age of 18 years old at the time of the offense. Rendering Criminal Assistance in the second degree is a gross misdemeanor offense if the person is not related to the offender and the crime the offender committed, or is being sought for, is a class B or C felony offense or a violation of parole, probation, or community supervision. If the person is a relative of the offender, then the crime of Rendering Criminal Assistance is a misdemeanor offense.

Rendering Criminal Assistance in the third degree is a misdemeanor offense if the person renders criminal assistance to a person who has committed a gross misdemeanor or misdemeanor offense.

Aggravating and Mitigating Circumstances.

Generally, the standard sentencing range is presumed to be appropriate for the typical felony case. However, the law provides that, in exceptional cases, a court has the discretion to depart from the standard range and may impose an exceptional sentence below the standard range (with a mitigating circumstance) or above the range (with an aggravating circumstance). The Sentencing Reform Act provides an illustrative, but nonexclusive, list of mitigating circumstances which the court may consider with regard to imposing an exceptional sentence below the standard range. The statute also provides an exclusive list of aggravating circumstances which the court may consider an aggravating circumstance or which a jury may consider in imposing an exceptional sentence above the standard range.

Summary of Amended Bill:

In the case of a Rendering Criminal Assistance offense, it is not a defense that a person's (or renderer's) knowledge of the underlying crime or juvenile offense committed by an offender receiving assistance was nonspecific or based upon secondhand information.

During sentencing for the offense of Rendering Criminal Assistance in the first degree, when an aggravating or mitigating circumstance is alleged, a "victim of the offense" includes the

victim or victims of the underlying crime committed by the person to whom criminal assistance was rendered but only if the person rendering assistance knew the circumstances of the underlying crime.

Amended Bill Compared to Original Bill:

The amendment authorizes a court or jury to consider the victims of the underlying offense but only if the renderer had knowledge of the circumstances of the underlying crime; for purposes of imposing an exceptional sentence, in a case involving Rendering Criminal Assistance in the first degree.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill arose from a situation where a Washington trooper was murdered during a traffic stop by a male defendant. During the course of the crime, there was a female passenger sitting in the front seat with the male defendant. Prior to the case being resolved, the female passenger misdirected investigating officers away from where the male defendant had gone. Later, as the female was being sentenced for Rendering Criminal Assistance, the state asked the court to also consider the fact that traditionally an aggravating factor is used for the murder of a police officer during the course of his duties. The court's response was that was the state trooper was the victim of the male defendant and not the female renderer (defendant). Although she misdirected police, her victims were actually the investigating police officers that she had misdirected and not the deceased officer.

Under current law, a person is guilty of Rendering Criminal Assistance if he or she intentionally interferes with the apprehension or prosecution of another person that he or she knows to have committed a crime. The state must prove beyond a reasonable doubt that the elements of intent and knowing are met and thereby a person cannot accidentally render criminal assistance. The first portion of the bill provides some guidance on how to prove knowledge of the crime. The second portion of the bill relates to allowing the courts to use what happens to a victim as part of an aggravated sentence.

(Opposed) In the case of the state trooper, the female defendant was sentenced for Rendering Criminal Assistance. The female defendant had direct knowledge of the offense since she was in the vehicle at the time of the offense and she knew the officer was killed during the course of his duties.

However, if a person heard through various family members that the reason a specific family member is seeking a ride is because he has a warrant out for shoplifting that information was

obtained second-hand and the information may have come from a person that may or may not be very reliable. That person, when contacted by law enforcement, may say they had no knowledge of the offender's warrant which may now be a misstatement. There are concerns regarding whether or not the defendant in this case formed the level of intent for something (such as a crime) that is more serious.

In regards to the aggravating factors for someone who renders assistance to a victim, the way the bill is written, a person would not have to have direct knowledge of the crime being committed by the offender, but he or she could be still facing the aggravators for a potentially exceptional sentence.

Persons Testifying: (In support) Tom McBride, Washington Association of Prosecuting Attorneys.

(Opposed) Alex Frix, Washington Association of Criminal Defense Lawyers and Washington Defenders Association.

Persons Signed In To Testify But Not Testifying: None.