

3SHB 1499 - S COMM AMD

By Committee on Law & Justice

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that seniors and
4 people with disabilities face a growing threat of financial
5 exploitation and abuse. The legislature intends with this act to hold
6 accountable those perpetrators who commit theft from seniors and
7 people with disabilities by increasing penalties, reducing barriers
8 to prosecution, and expanding the scope of protection for vulnerable
9 adults.

10 **Sec. 2.** RCW 9A.42.035 and 2006 c 228 s 4 are each amended to
11 read as follows:

12 (1) A person is guilty of the crime of criminal mistreatment in
13 the third degree if the person is the parent of a child, is a person
14 entrusted with the physical custody of a child or other dependent
15 person, is a person who has assumed the responsibility to provide to
16 a dependent person the basic necessities of life, or is a person
17 employed to provide to the child or dependent person the basic
18 necessities of life((~~τ~~)) and ((~~either~~

19 ~~(a))~~), with criminal negligence, creates an imminent and
20 substantial risk of substantial bodily harm to a child or dependent
21 person by withholding any of the basic necessities of life((~~τ~~ or

22 ~~(b) With criminal negligence, causes substantial bodily harm to a~~
23 ~~child or dependent person by withholding any of the basic necessities~~
24 ~~of life)).~~

25 (2) For purposes of this section, "a person who has assumed the
26 responsibility to provide to a dependent person the basic necessities
27 of life" means a person other than: (a) A government agency that
28 regularly provides assistance or services to dependent persons,
29 including but not limited to the department of social and health
30 services; or (b) a good samaritan as defined in RCW 9A.42.010.

1 (3) Criminal mistreatment in the third degree is a gross
2 misdemeanor.

3 **Sec. 3.** RCW 9.94A.411 and 2006 c 271 s 1 and 2006 c 73 s 13 are
4 each reenacted and amended to read as follows:

5 (1) Decision not to prosecute.

6 STANDARD: A prosecuting attorney may decline to prosecute, even
7 though technically sufficient evidence to prosecute exists, in
8 situations where prosecution would serve no public purpose, would
9 defeat the underlying purpose of the law in question or would result
10 in decreased respect for the law.

11 GUIDELINE/COMMENTARY:

12 Examples

13 The following are examples of reasons not to prosecute which
14 could satisfy the standard.

15 (a) Contrary to Legislative Intent - It may be proper to decline
16 to charge where the application of criminal sanctions would be
17 clearly contrary to the intent of the legislature in enacting the
18 particular statute.

19 (b) Antiquated Statute - It may be proper to decline to charge
20 where the statute in question is antiquated in that:

21 (i) It has not been enforced for many years; and

22 (ii) Most members of society act as if it were no longer in
23 existence; and

24 (iii) It serves no deterrent or protective purpose in today's
25 society; and

26 (iv) The statute has not been recently reconsidered by the
27 legislature.

28 This reason is not to be construed as the basis for declining
29 cases because the law in question is unpopular or because it is
30 difficult to enforce.

31 (c) De Minimis Violation - It may be proper to decline to charge
32 where the violation of law is only technical or insubstantial and
33 where no public interest or deterrent purpose would be served by
34 prosecution.

35 (d) Confinement on Other Charges - It may be proper to decline to
36 charge because the accused has been sentenced on another charge to a
37 lengthy period of confinement; and

38 (i) Conviction of the new offense would not merit any additional
39 direct or collateral punishment;

1 (ii) The new offense is either a misdemeanor or a felony which is
2 not particularly aggravated; and

3 (iii) Conviction of the new offense would not serve any
4 significant deterrent purpose.

5 (e) Pending Conviction on Another Charge - It may be proper to
6 decline to charge because the accused is facing a pending prosecution
7 in the same or another county; and

8 (i) Conviction of the new offense would not merit any additional
9 direct or collateral punishment;

10 (ii) Conviction in the pending prosecution is imminent;

11 (iii) The new offense is either a misdemeanor or a felony which
12 is not particularly aggravated; and

13 (iv) Conviction of the new offense would not serve any
14 significant deterrent purpose.

15 (f) High Disproportionate Cost of Prosecution - It may be proper
16 to decline to charge where the cost of locating or transporting, or
17 the burden on, prosecution witnesses is highly disproportionate to
18 the importance of prosecuting the offense in question. This reason
19 should be limited to minor cases and should not be relied upon in
20 serious cases.

21 (g) Improper Motives of Complainant - It may be proper to decline
22 charges because the motives of the complainant are improper and
23 prosecution would serve no public purpose, would defeat the
24 underlying purpose of the law in question or would result in
25 decreased respect for the law.

26 (h) Immunity - It may be proper to decline to charge where
27 immunity is to be given to an accused in order to prosecute another
28 where the accused's information or testimony will reasonably lead to
29 the conviction of others who are responsible for more serious
30 criminal conduct or who represent a greater danger to the public
31 interest.

32 (i) Victim Request - It may be proper to decline to charge
33 because the victim requests that no criminal charges be filed and the
34 case involves the following crimes or situations:

35 (i) Assault cases where the victim has suffered little or no
36 injury;

37 (ii) Crimes against property, not involving violence, where no
38 major loss was suffered;

39 (iii) Where doing so would not jeopardize the safety of society.

1 Care should be taken to insure that the victim's request is
2 freely made and is not the product of threats or pressure by the
3 accused.

4 The presence of these factors may also justify the decision to
5 dismiss a prosecution which has been commenced.

6 Notification

7 The prosecutor is encouraged to notify the victim, when
8 practical, and the law enforcement personnel, of the decision not to
9 prosecute.

10 (2) Decision to prosecute.

11 (a) STANDARD:

12 Crimes against persons will be filed if sufficient admissible
13 evidence exists, which, when considered with the most plausible,
14 reasonably foreseeable defense that could be raised under the
15 evidence, would justify conviction by a reasonable and objective fact
16 finder. With regard to offenses prohibited by RCW 9A.44.040,
17 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086,
18 9A.44.089, and 9A.64.020 the prosecutor should avoid pre-filing
19 agreements or diversions intended to place the accused in a program
20 of treatment or counseling, so that treatment, if determined to be
21 beneficial, can be provided pursuant to RCW 9.94A.670.

22 Crimes against property/other crimes will be filed if the
23 admissible evidence is of such convincing force as to make it
24 probable that a reasonable and objective fact finder would convict
25 after hearing all the admissible evidence and the most plausible
26 defense that could be raised.

27 See table below for the crimes within these categories.

28 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

29 CRIMES AGAINST PERSONS

30 Aggravated Murder (RCW 10.95.020)

31 1st Degree Murder (RCW 9A.32.030)

32 2nd Degree Murder (RCW 9A.32.050)

33 1st Degree Manslaughter (RCW 9A.32.060)

34 2nd Degree Manslaughter (RCW 9A.32.070)

35 1st Degree Kidnapping (RCW 9A.40.020)

36 2nd Degree Kidnapping (RCW 9A.40.030)

37 1st Degree Assault (RCW 9A.36.011)

38 2nd Degree Assault (RCW 9A.36.021)

39 3rd Degree Assault (RCW 9A.36.031)

1 1st Degree Assault of a Child (RCW 9A.36.120)
2 2nd Degree Assault of a Child (RCW 9A.36.130)
3 3rd Degree Assault of a Child (RCW 9A.36.140)
4 1st Degree Rape (RCW 9A.44.040)
5 2nd Degree Rape (RCW 9A.44.050)
6 3rd Degree Rape (RCW 9A.44.060)
7 1st Degree Rape of a Child (RCW 9A.44.073)
8 2nd Degree Rape of a Child (RCW 9A.44.076)
9 3rd Degree Rape of a Child (RCW 9A.44.079)
10 1st Degree Robbery (RCW 9A.56.200)
11 2nd Degree Robbery (RCW 9A.56.210)
12 1st Degree Arson (RCW 9A.48.020)
13 1st Degree Burglary (RCW 9A.52.020)
14 1st Degree Identity Theft (RCW 9.35.020(2))
15 2nd Degree Identity Theft (RCW 9.35.020(3))
16 1st Degree Extortion (RCW 9A.56.120)
17 2nd Degree Extortion (RCW 9A.56.130)
18 1st Degree Criminal Mistreatment (RCW 9A.42.020)
19 2nd Degree Criminal Mistreatment (RCW 9A.42.030)
20 Indecent Liberties (RCW 9A.44.100)
21 Incest (RCW 9A.64.020)
22 Vehicular Homicide (RCW 46.61.520)
23 Vehicular Assault (RCW 46.61.522)
24 1st Degree Child Molestation (RCW 9A.44.083)
25 2nd Degree Child Molestation (RCW 9A.44.086)
26 3rd Degree Child Molestation (RCW 9A.44.089)
27 1st Degree Promoting Prostitution (RCW 9A.88.070)
28 Intimidating a Juror (RCW 9A.72.130)
29 Communication with a Minor (RCW 9.68A.090)
30 Intimidating a Witness (RCW 9A.72.110)
31 Intimidating a Public Servant (RCW 9A.76.180)
32 Bomb Threat (if against person) (RCW 9.61.160)
33 Unlawful Imprisonment (RCW 9A.40.040)
34 Promoting a Suicide Attempt (RCW 9A.36.060)
35 ~~((Riot))~~ Criminal Mischief (if against person) (RCW 9A.84.010)
36 Stalking (RCW 9A.46.110)
37 Custodial Assault (RCW 9A.36.100)
38 Domestic Violence Court Order Violation (RCW 10.99.040,
39 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or
40 74.34.145)

1 Counterfeiting (if a violation of RCW 9.16.035(4))
2 Felony Driving a Motor Vehicle While Under the Influence of
3 Intoxicating Liquor or Any Drug (RCW 46.61.502(6))
4 Felony Physical Control of a Motor Vehicle While Under the
5 Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))
6 CRIMES AGAINST PROPERTY/OTHER CRIMES
7 2nd Degree Arson (RCW 9A.48.030)
8 1st Degree Escape (RCW 9A.76.110)
9 2nd Degree Escape (RCW 9A.76.120)
10 2nd Degree Burglary (RCW 9A.52.030)
11 1st Degree Theft (RCW 9A.56.030)
12 2nd Degree Theft (RCW 9A.56.040)
13 1st Degree Perjury (RCW 9A.72.020)
14 2nd Degree Perjury (RCW 9A.72.030)
15 1st Degree Introducing Contraband (RCW 9A.76.140)
16 2nd Degree Introducing Contraband (RCW 9A.76.150)
17 1st Degree Possession of Stolen Property (RCW 9A.56.150)
18 2nd Degree Possession of Stolen Property (RCW 9A.56.160)
19 Bribery (RCW 9A.68.010)
20 Bribing a Witness (RCW 9A.72.090)
21 Bribe received by a Witness (RCW 9A.72.100)
22 Bomb Threat (if against property) (RCW 9.61.160)
23 1st Degree Malicious Mischief (RCW 9A.48.070)
24 2nd Degree Malicious Mischief (RCW 9A.48.080)
25 1st Degree Reckless Burning (RCW 9A.48.040)
26 Taking a Motor Vehicle without Authorization (RCW 9A.56.070 and
27 9A.56.075)
28 Forgery (RCW 9A.60.020)
29 2nd Degree Promoting Prostitution (RCW 9A.88.080)
30 Tampering with a Witness (RCW 9A.72.120)
31 Trading in Public Office (RCW 9A.68.040)
32 Trading in Special Influence (RCW 9A.68.050)
33 Receiving/Granting Unlawful Compensation (RCW 9A.68.030)
34 Bigamy (RCW 9A.64.010)
35 Eluding a Pursuing Police Vehicle (RCW 46.61.024)
36 Willful Failure to Return from Furlough
37 Escape from Community Custody
38 ((Riet)) Criminal Mischief (if against property) (RCW 9A.84.010)
39 1st Degree Theft of Livestock (RCW 9A.56.080)

1 2nd Degree Theft of Livestock (RCW 9A.56.083)

2 ALL OTHER UNCLASSIFIED FELONIES

3 Selection of Charges/Degree of Charge

4 (i) The prosecutor should file charges which adequately describe
5 the nature of defendant's conduct. Other offenses may be charged only
6 if they are necessary to ensure that the charges:

7 (A) Will significantly enhance the strength of the state's case
8 at trial; or

9 (B) Will result in restitution to all victims.

10 (ii) The prosecutor should not overcharge to obtain a guilty
11 plea. Overcharging includes:

12 (A) Charging a higher degree;

13 (B) Charging additional counts.

14 This standard is intended to direct prosecutors to charge those
15 crimes which demonstrate the nature and seriousness of a defendant's
16 criminal conduct, but to decline to charge crimes which are not
17 necessary to such an indication. Crimes which do not merge as a
18 matter of law, but which arise from the same course of conduct, do
19 not all have to be charged.

20 (b) GUIDELINES/COMMENTARY:

21 (i) Police Investigation

22 A prosecuting attorney is dependent upon law enforcement agencies
23 to conduct the necessary factual investigation which must precede the
24 decision to prosecute. The prosecuting attorney shall ensure that a
25 thorough factual investigation has been conducted before a decision
26 to prosecute is made. In ordinary circumstances the investigation
27 should include the following:

28 (A) The interviewing of all material witnesses, together with the
29 obtaining of written statements whenever possible;

30 (B) The completion of necessary laboratory tests; and

31 (C) The obtaining, in accordance with constitutional
32 requirements, of the suspect's version of the events.

33 If the initial investigation is incomplete, a prosecuting
34 attorney should insist upon further investigation before a decision
35 to prosecute is made, and specify what the investigation needs to
36 include.

37 (ii) Exceptions

1 In certain situations, a prosecuting attorney may authorize
2 filing of a criminal complaint before the investigation is complete
3 if:

- 4 (A) Probable cause exists to believe the suspect is guilty; and
- 5 (B) The suspect presents a danger to the community or is likely
6 to flee if not apprehended; or
- 7 (C) The arrest of the suspect is necessary to complete the
8 investigation of the crime.

9 In the event that the exception to the standard is applied, the
10 prosecuting attorney shall obtain a commitment from the law
11 enforcement agency involved to complete the investigation in a timely
12 manner. If the subsequent investigation does not produce sufficient
13 evidence to meet the normal charging standard, the complaint should
14 be dismissed.

15 (iii) Investigation Techniques

16 The prosecutor should be fully advised of the investigatory
17 techniques that were used in the case investigation including:

- 18 (A) Polygraph testing;
- 19 (B) Hypnosis;
- 20 (C) Electronic surveillance;
- 21 (D) Use of informants.

22 (iv) Prefiling Discussions with Defendant

23 Discussions with the defendant or his/her representative
24 regarding the selection or disposition of charges may occur prior to
25 the filing of charges, and potential agreements can be reached.

26 (v) Prefiling Discussions with Victim(s)

27 Discussions with the victim(s) or victims' representatives
28 regarding the selection or disposition of charges may occur before
29 the filing of charges. The discussions may be considered by the
30 prosecutor in charging and disposition decisions, and should be
31 considered before reaching any agreement with the defendant regarding
32 these decisions.

33 **Sec. 4.** RCW 9A.56.020 and 2004 c 122 s 1 are each amended to
34 read as follows:

35 (1) "Theft" means:

- 36 (a) To wrongfully obtain or exert unauthorized control over the
37 property or services of another or the value thereof, with intent to
38 deprive him or her of such property or services; or

1 (b) By color or aid of deception to obtain control over the
2 property or services of another or the value thereof, with intent to
3 deprive him or her of such property or services; or

4 (c) To appropriate lost or misdelivered property or services of
5 another, or the value thereof, with intent to deprive him or her of
6 such property or services; or

7 (d) To obtain control over the property or services, or the value
8 thereof, of a vulnerable adult using undue influence. "Undue
9 influence" means unfair persuasion that seriously impairs the free
10 exercise of judgment.

11 (2) In any prosecution for theft, it shall be a sufficient
12 defense that:

13 (a) The property or service was appropriated openly and avowedly
14 under a claim of title made in good faith, even though the claim be
15 untenable; or

16 (b) The property was merchandise pallets that were received by a
17 pallet recycler or repairer in the ordinary course of its business.

18 **Sec. 5.** RCW 9A.56.010 and 2011 c 164 s 2 are each amended to
19 read as follows:

20 The following definitions are applicable in this chapter unless
21 the context otherwise requires:

22 (1) "Access device" means any card, plate, code, account number,
23 or other means of account access that can be used alone or in
24 conjunction with another access device to obtain money, goods,
25 services, or anything else of value, or that can be used to initiate
26 a transfer of funds, other than a transfer originated solely by paper
27 instrument;

28 (2) "Appropriate lost or misdelivered property or services" means
29 obtaining or exerting control over the property or services of
30 another which the actor knows to have been lost or mislaid, or to
31 have been delivered under a mistake as to identity of the recipient
32 or as to the nature or amount of the property;

33 (3) "Beverage crate" means a plastic or metal box-like container
34 used by a manufacturer or distributor in the transportation or
35 distribution of individually packaged beverages to retail outlets,
36 and affixed with language stating "property of," "owned
37 by," or other markings or words identifying ownership;

38 (4) "By color or aid of deception" means that the deception
39 operated to bring about the obtaining of the property or services; it

1 is not necessary that deception be the sole means of obtaining the
2 property or services;

3 (5) "Deception" occurs when an actor knowingly:

4 (a) Creates or confirms another's false impression which the
5 actor knows to be false; or

6 (b) Fails to correct another's impression which the actor
7 previously has created or confirmed; or

8 (c) Prevents another from acquiring information material to the
9 disposition of the property involved; or

10 (d) Transfers or encumbers property without disclosing a lien,
11 adverse claim, or other legal impediment to the enjoyment of the
12 property, whether that impediment is or is not valid, or is or is not
13 a matter of official record; or

14 (e) Promises performance which the actor does not intend to
15 perform or knows will not be performed;

16 (6) "Deprive" in addition to its common meaning means to make
17 unauthorized use or an unauthorized copy of records, information,
18 data, trade secrets, or computer programs;

19 (7) "Mail," in addition to its common meaning, means any letter,
20 postal card, package, bag, or other item that is addressed to a
21 specific address for delivery by the United States postal service or
22 any commercial carrier performing the function of delivering similar
23 items to residences or businesses, provided the mail:

24 (a)(i) Is addressed with a specific person's name, family name,
25 or company, business, or corporation name on the outside of the item
26 of mail or on the contents inside; and

27 (ii) Is not addressed to a generic unnamed occupant or resident
28 of the address without an identifiable person, family, or company,
29 business, or corporation name on the outside of the item of mail or
30 on the contents inside; and

31 (b) Has been left for collection or delivery in any letter box,
32 mailbox, mail receptacle, or other authorized depository for mail, or
33 given to a mail carrier, or left with any private business that
34 provides mailboxes or mail addresses for customers or when left in a
35 similar location for collection or delivery by any commercial
36 carrier; or

37 (c) Is in transit with a postal service, mail carrier, letter
38 carrier, commercial carrier, or that is at or in a postal vehicle,
39 postal station, mailbox, postal airplane, transit station, or similar
40 location of a commercial carrier; or

1 (d) Has been delivered to the intended address, but has not been
2 received by the intended addressee.

3 Mail, for purposes of chapter 164, Laws of 2011, does not include
4 magazines, catalogs, direct mail inserts, newsletters, advertising
5 circulars, or any mail that is considered third-class mail by the
6 United States postal service;

7 (8) "Mailbox," in addition to its common meaning, means any
8 authorized depository or receptacle of mail for the United States
9 postal service or authorized depository for a commercial carrier that
10 provides services to the general public, including any address to
11 which mail is or can be addressed, or a place where the United States
12 postal service or equivalent commercial carrier delivers mail to its
13 addressee;

14 (9) "Merchandise pallet" means a wood or plastic carrier designed
15 and manufactured as an item on which products can be placed before or
16 during transport to retail outlets, manufacturers, or contractors,
17 and affixed with language stating "property of . . .," "owned
18 by . . .," or other markings or words identifying ownership;

19 (10) "Obtain control over" in addition to its common meaning,
20 means:

21 (a) In relation to property, to bring about a transfer or
22 purported transfer to the obtainer or another of a legally recognized
23 interest in the property; or

24 (b) In relation to labor or service, to secure performance
25 thereof for the benefits of the obtainer or another;

26 (11) "Owner" means a person, other than the actor, who has
27 possession of or any other interest in the property or services
28 involved, and without whose consent the actor has no authority to
29 exert control over the property or services;

30 (12) "Parking area" means a parking lot or other property
31 provided by retailers for use by a customer for parking an automobile
32 or other vehicle;

33 (13) "Receive" includes, but is not limited to, acquiring title,
34 possession, control, or a security interest, or any other interest in
35 the property;

36 (14) "Received by the intended addressee" means that the
37 addressee, owner of the delivery mailbox, or authorized agent has
38 removed the delivered mail from its delivery mailbox;

39 (15) "Services" includes, but is not limited to, labor,
40 professional services, transportation services, electronic computer

1 services, the supplying of hotel accommodations, restaurant services,
2 entertainment, the supplying of equipment for use, and the supplying
3 of commodities of a public utility nature such as gas, electricity,
4 steam, and water;

5 (16) "Shopping cart" means a basket mounted on wheels or similar
6 container generally used in a retail establishment by a customer for
7 the purpose of transporting goods of any kind;

8 (17) "Stolen" means obtained by theft, robbery, or extortion;

9 (18) "Subscription television service" means cable or encrypted
10 video and related audio and data services intended for viewing on a
11 home television by authorized members of the public only, who have
12 agreed to pay a fee for the service. Subscription services include
13 but are not limited to those video services presently delivered by
14 coaxial cable, fiber optic cable, terrestrial microwave, television
15 broadcast, and satellite transmission;

16 (19) "Telecommunication device" means (a) any type of instrument,
17 device, machine, or equipment that is capable of transmitting or
18 receiving telephonic or electronic communications; or (b) any part of
19 such an instrument, device, machine, or equipment, or any computer
20 circuit, computer chip, electronic mechanism, or other component,
21 that is capable of facilitating the transmission or reception of
22 telephonic or electronic communications;

23 (20) "Telecommunication service" includes any service other than
24 subscription television service provided for a charge or compensation
25 to facilitate the transmission, transfer, or reception of a
26 telephonic communication or an electronic communication;

27 (21) Value. (a) "Value" means the market value of the property or
28 services at the time and in the approximate area of the criminal act.

29 (b) Whether or not they have been issued or delivered, written
30 instruments, except those having a readily ascertained market value,
31 shall be evaluated as follows:

32 (i) The value of an instrument constituting an evidence of debt,
33 such as a check, draft, or promissory note, shall be deemed the
34 amount due or collectible thereon or thereby, that figure ordinarily
35 being the face amount of the indebtedness less any portion thereof
36 which has been satisfied;

37 (ii) The value of a ticket or equivalent instrument which
38 evidences a right to receive transportation, entertainment, or other
39 service shall be deemed the price stated thereon, if any; and if no
40 price is stated thereon, the value shall be deemed the price of such

1 ticket or equivalent instrument which the issuer charged the general
2 public;

3 (iii) The value of any other instrument that creates, releases,
4 discharges, or otherwise affects any valuable legal right, privilege,
5 or obligation shall be deemed the greatest amount of economic loss
6 which the owner of the instrument might reasonably suffer by virtue
7 of the loss of the instrument.

8 (c) Except as provided in RCW 9A.56.340(4) and 9A.56.350(4),
9 whenever any series of transactions which constitute theft, would,
10 when considered separately, constitute theft in the third degree
11 because of value, and said series of transactions are a part of a
12 criminal episode or a common scheme or plan, then the transactions
13 may be aggregated in one count and the sum of the value of all said
14 transactions shall be the value considered in determining the degree
15 of theft involved.

16 For purposes of this subsection, "criminal episode" means a
17 series of thefts committed by the same person from one or more
18 mercantile establishments on three or more occasions within a five-
19 day period.

20 (d) Whenever any person is charged with possessing stolen
21 property and such person has unlawfully in his possession at the same
22 time the stolen property of more than one person, then the stolen
23 property possessed may be aggregated in one count and the sum of the
24 value of all said stolen property shall be the value considered in
25 determining the degree of theft involved. Thefts committed by the
26 same person in different counties that have been aggregated in one
27 county may be prosecuted in any county in which one of the thefts
28 occurred.

29 (e) Property or services having value that cannot be ascertained
30 pursuant to the standards set forth above shall be deemed to be of a
31 value not exceeding two hundred and fifty dollars;

32 (22) "Vulnerable adult" includes a person eighteen years or older
33 who is particularly vulnerable or incapable of resistance. A person
34 is particularly vulnerable if he or she is more vulnerable to the
35 commission of a crime than the typical victim of that same crime. The
36 defendant must have known or should have known that the victim was a
37 vulnerable adult;

38 (23) "Wrongfully obtains" or "exerts unauthorized control" means:

39 (a) To take the property or services of another;

1 (b) Having any property or services in one's possession, custody
2 or control as bailee, factor, lessee, pledgee, renter, servant,
3 attorney, agent, employee, trustee, executor, administrator,
4 guardian, or officer of any person, estate, association, or
5 corporation, or as a public officer, or person authorized by
6 agreement or competent authority to take or hold such possession,
7 custody, or control, to secrete, withhold, or appropriate the same to
8 his or her own use or to the use of any person other than the true
9 owner or person entitled thereto; or

10 (c) Having any property or services in one's possession, custody,
11 or control as partner, to secrete, withhold, or appropriate the same
12 to his or her use or to the use of any person other than the true
13 owner or person entitled thereto, where the use is unauthorized by
14 the partnership agreement."

3SHB 1499 - S COMM AMD

By Committee on Law & Justice

15 On page 1, line 1 of the title, after "adults;" strike the
16 remainder of the title and insert "amending RCW 9A.42.035, 9A.56.020,
17 and 9A.56.010; reenacting and amending RCW 9.94A.411; creating a new
18 section; and prescribing penalties."

EFFECT: The current legal standard of recklessness would remain unchanged for the offense of Criminal Mistreatment in the 1st and 2nd degrees when a person withholds the basic necessities of life from a child or dependent person. Removes the new crime of theft from a vulnerable adult.

--- END ---