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## Judiciary Committee

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### HB 1118

**Title:** An act relating to immunity from civil liability for damage or injury that results from the entry of a vehicle to render assistance.

**Brief Description:** Concerning immunity from civil liability for damage or injury that results from the entry of a vehicle to render assistance.

**Sponsors:** Representatives Peterson, Appleton, McBride, Pike, Stanford, Jinkins, Fey and Gregerson.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Provides immunity from civil liability to a person who enters a vehicle to render assistance to an animal, minor, or vulnerable adult under certain circumstances.</li></ul>
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**Hearing Date:** 1/17/17

**Staff:** Audrey Frey (786-7289).

**Background:**

Washington Law.

Washington has a number of provisions that address situations in which animals, children, and other persons are left in vehicles or mistreated. Law enforcement and animal control officers have some immunity with respect to animal rescue efforts.

*Leaving animals in vehicles.* It is a class 2 civil infraction to leave or confine an animal in a motor vehicle or enclosed space if the animal could be harmed or killed by exposure to excessive heat, cold, lack of ventilation, or lack of necessary water. An animal is defined as any nonhuman mammal, bird, reptile, or amphibian.

Law enforcement and animal control officers are permitted to enter a vehicle and remove an animal upon reasonable belief that the animal is suffering, or is likely to suffer harm, from

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exposure to excessive heat, cold, lack of ventilation, or lack of necessary water. Officers who enter a vehicle to remove an animal under these circumstances are not liable for any property damage that results.

*Leaving children in vehicles.* It is a gross misdemeanor for a person who has the care and custody of a child under 12 years of age to leave the child in a parked automobile unattended by an adult while the person enters a tavern or other premises where vinous, spirituous, or malt liquors are dispensed for consumption.

It is a misdemeanor for a person to park a vehicle on a public highway or in a public place with its motor running and leave a minor child under the age of 16 years unattended in the vehicle.

*Criminal mistreatment.* A parent or person entrusted with the physical custody of a child or other dependent person is guilty of criminal mistreatment if he or she:

- creates a risk of death or bodily harm to the child or dependent person; or
- causes injury or harm to the child or dependent person by withholding any of the basic necessities of life.

"Basic necessities of life" is defined as food, water, shelter, clothing, and medically necessary health care. "Dependent person" means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life. Nursing home residents, adult family home residents, and vulnerable adults are presumed to be dependent persons for the purposes of the laws on criminal mistreatment.

Criminal mistreatment ranges from a first degree offense, which is a class B felony, to a fourth degree offense, which is a misdemeanor.

#### Laws in other states.

Laws in Florida, Ohio, Tennessee, and Wisconsin provide immunity from civil liability to a person who enters a motor vehicle for the purpose of assisting an animal, child, or vulnerable adult, provided that the person's conduct conforms to certain requirements, such as:

- the person contacted law enforcement or dialed 911 before entering the vehicle;
- the person stayed with the animal until law enforcement arrived at the scene;
- the person placed a notice on the windshield with certain contact information; and
- the person used no more force than necessary under the circumstances to enter the vehicle.

Florida law applies to animals, children, and vulnerable adults. Tennessee law includes only children and animals. Ohio and Wisconsin cover animals only.

#### **Summary of Bill:**

A person who enters a vehicle for the purpose of rendering assistance to an animal, minor, or vulnerable adult is immune from civil liability for damage or injury that results if the person's conduct conforms to certain requirements.

#### Definitions.

- "Animal" means any nonhuman mammal, bird, reptile, or amphibian.

- "Minor" means a child who is less than 18 years old.
- "Vehicle" means motor vehicle as defined in the state laws on motor vehicles.
- "Vulnerable adult" has the same meaning as provided in the laws regarding abuse of vulnerable adults, which includes:
  - a person 60 years of age or older who has the functional, mental, or physical inability to care for himself or herself;
  - a person who is found incapacitated under the state laws on guardianship;
  - a person who has a developmental disability;
  - a person who is admitted to certain facilities;
  - a person who is receiving services from home health, hospice, or home care agencies licensed or required to be licensed;
  - a person who is receiving services from certain individual providers; or
  - a person who self-directs his or her own care and receives services from certain personal aides.

Requirements for Immunity.

A person is immune from civil liability for any damage or injury that results from his or her entry into a vehicle for the purpose of rendering assistance to an animal, minor, or vulnerable adult present in the vehicle if:

- The person had a good faith belief that the animal, minor, or vulnerable adult was in imminent danger, and the belief was a reasonable one based on the circumstances known to the person at the time;
- The person determined that entry into the vehicle was necessary to remove the animal, minor, or vulnerable adult from the vehicle, or to enable the animal, minor, or vulnerable adult to exit the vehicle;
- The person made a reasonable effort under the circumstances to contact law enforcement, emergency medical services, or animal control authorities before entering the vehicle;
- The person used no more force than was necessary under the circumstances to enter the vehicle;
- The person remained with the animal, minor, or vulnerable adult in a safe location, within reasonable proximity to the vehicle, for a reasonable length of time under the circumstances, or until a law enforcement officer, emergency medical service provider, animal control officer, or other first responder arrived at the scene; and
- If the person left the scene before the owner or operator of the vehicle returned, the person made a reasonable effort under the circumstances to place notice in a visible location on the vehicle with the person's contact information, the reason he or she entered the vehicle, the location, if known, of the animal, minor, or vulnerable adult, and whether the authorities were notified.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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