

ORDINANCE No. 120887

COUNCIL BILL No. 114234

The City of

AN ORDINANCE relating to the criminal code, amending Sections 12A.02.080, 12A.02.150, 12A.08.010, Subsection A4 of Section 12A.10.010, Subsection A of Section 12A.18.010, 12A.18.090, and Subsection A of Section 12A.24.150, repealing Subsections C and D of Section 12A.24.025, and adding a section to Chapter 12A.02 of the Seattle Municipal Code.

Honorable President:

Your Committee on _____

to which was referred the within Council report that we have considered the same

Compton
W...
D...

8-12-02 Passed 8
(Excused) C

Law Department

COMPTROLLER FILE No. _____

Introduced: <i>JUL - 8 2002</i>	By: <i>COMPTON</i>
Referred: <i>JUL - 8 2002</i>	To: <i>Police, Fire, Courts & Technology Committee</i>
Referred:	To:
Referred:	To:
Reported: <i>8-12-02</i>	Second Reading:
Third Reading: <i>8-12-02</i>	Signed: <i>8-12-02</i>
Presented to Mayor: <i>8-13-02</i>	Approved: <i>8/19/02</i>
Returned to City Clerk: <i>8/20/02</i>	Published: <i>8pp full</i>
Vetted by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

[Signature]

President:

Committee on

was referred the within Council Bill No.

that we have considered the same and respectfully recommend that the same:

Compton aye

McIver aye

Drayton aye

52 Passed 3-0

(Excused: Compton)

Department

Committee Chair

[Signature]
Approved
Chair

ORDINANCE 120887

1
2 AN ORDINANCE relating to the criminal code, amending Sections 12A.02.080, 12A.02.150,
3 12A.08.010, Subsection A4 of Section 12A.10.010, Subsection A of Section 12A.18.010,
4 12A.18.090, and Subsection A of Section 12A.24.150, repealing Subsections C and D of Section
5 12A.24.025, and adding a section to Chapter 12A.02 of the Seattle Municipal Code.

6 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

7 **Section 1.** Section 12A.02.080 of the Seattle Municipal Code (Ordinance 102843 §
8 12A.01.090(2)) is amend as follows:

9 **12A.02.080 Punishment of violation.**

10 A violation may be punished by a civil fine or forfeiture not to exceed Five Hundred Dollars
11 (\$500.00), but a finding that a violation has been committed (~~(conviction of a violation)~~) shall not give
12 rise to any disability or legal disadvantage based on the conviction of a criminal offense. The court may
13 also order a person found to have committed a violation to make or pay restitution. The terms
14 “violation,” “infraction,” and “civil infraction” are synonymous.

15 **Section 2.** Chapter 12A.02 of the Seattle Municipal Code (Ordinance 102843, as amended) is
16 further amended by adding a section as follows:

17 **12A.02.085 Failure to sign or failure to respond to notice of civil infraction.**

18 A. A person who willfully fails to sign a notice of civil infraction is guilty of a misdemeanor.

19 B. A person who willfully violates his or her written and signed promise to appear in court or his
20 or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor. A
21 written promise to appear in court or a written promise to respond to a notice of civil infraction may be
22 complied with by an appearance by counsel.

23 **Section 3.** Section 12A.02.150 of the Seattle Municipal Code (Ordinance 102843 § 12A.01.150,
24 as last amended by Ordinance 115649 § 1) is further amended as follows:



12A.02.150 Definitions.

1 In this subtitle, unless a different meaning plainly is required:

2 1. "Act" or "action" means a bodily movement whether voluntary or involuntary.

3 2. "Acted" includes, where relevant, omitted to act.

4 3. "Actor" includes, where relevant, a person failing to act.

5 4. "Bodily injury," ~~((or))~~ "physical injury," or "bodily harm" means ~~((significant:~~

6 a.) physical pain or injury, ~~((or~~

7 b.) illness, ~~((;))~~ or

8 ~~((or))~~ an impairment of physical condition.

9 5. ~~((("Deadly force" means force which creates a substantial risk of causing death or serious~~
10 ~~bodily injury.~~

11 ~~6.))~~ "Deadly weapon" means an explosive, loaded or unloaded firearm, or other weapon, device,
12 instrument, article, or substance, including a "vehicle" as defined in this section, which, under the
13 circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of
14 causing death or substantial ~~((serious))~~ bodily harm ~~((injury))~~.

15 6. ~~((7.))~~ "Dwelling" means any building or structure, though movable or temporary, or a portion
16 thereof, which is used or ordinarily used by a person for lodging.

17 7. ~~((8.))~~ "Element of an offense" means: (i) such conduct or (ii) such attendant circumstances, or
18 (iii) such a result of conduct as:

19 a. Is included in the description of the offense; or

20 b. Establishes the required kind of culpability; or

21 c. Negates an excuse or justification for such conduct; or

22 d. Negates a defense under the statute of limitations; or



e. Establishes jurisdiction.

1 ~~((9. "Foreible felony" means any felony which involves the use or threat of physical force or~~
2 ~~violence against any person.))~~

3 8. ~~((10.))~~ "Judge" includes every judicial officer authorized, alone or with others, to hold or
4 preside over a court.

5 9. ~~((11.))~~ "Material element of an offense" means an element that does not relate exclusively to
6 the statute of limitations, jurisdiction or to any other matter similarly unconnected with: (a) the harm or
7 evil, incident to conduct, sought to be prevented by the law defining the offense, or (b) the existence of a
8 justification or excuse for such conduct.

9 10. ~~((12.))~~ "Motor vehicle" means every vehicle which is self-propelled or propelled by electric
10 power obtained from overhead trolley wires.

11 11. ~~((13.))~~ "Officer" and "public officer" has its ordinary meaning and includes all assistants,
12 deputies, clerks and employees of any public officer and all persons exercising or assuming to exercise
13 any of the powers or functions of a public officer.

14 12. ~~((14.))~~ "Omission" means a failure to act.

15 13. ~~((15.))~~ "Ordinance" means an ordinance of The City of Seattle.

16 14. ~~((16.))~~ "Peace officer" means a public officer charged with the duty to enforce public order
17 and to make arrests for offenses under this subtitle or under the criminal laws of the state.

18 15. ~~((17.))~~ "Person," "he," and "actor" include any natural person, and, in addition, a corporation
19 or an unincorporated association unless a contrary intention plainly appears.

20 16. ~~((18.))~~ ~~((("Prison" or))~~ "Jail" means any place designated by law for the keeping of persons
21 held in custody under process of law, or under lawful arrest.
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1 ~~17. ((19. "Prisoner" includes any person held in custody under process of law, or under lawful~~
2 ~~arrest.~~

3 ~~20.))~~ 18. "Property" includes both real and personal property.

4 ~~19. ((21.)) "Reasonably believes" or "reasonable belief" designates a belief which the actor is not~~
5 ~~reckless or criminally negligent in holding.~~

6 ~~((22. "Serious bodily injury" or "serious physical injury" means bodily injury which creates a~~
7 ~~substantial risk of death or which causes serious disfigurement, or protracted loss or impairment of the~~
8 ~~function of any bodily member or organ.~~

9 ~~23.))~~ 20. "Sexual conduct" means any of the following:

10 a. Sexual intercourse in its ordinary sense which occurs upon any penetration, however
11 slight, or contact between persons involving the sex organs of one and the mouth or anus of
12 another;

13 b. Masturbation, manual or instrumental, of one (1) person by another.

14 21. ((24.)) "Statute" means the Constitution or an Act of the Legislature of this state.

15 22. ((25.)) "Vehicle" means a "motor vehicle" as defined in Chapter 11.14, any aircraft, or any
16 vessel equipped for propulsion by mechanical means or by sail.

17 23. ((26.)) "Voluntary" has the meaning specified in Section 12A.04.010.

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21 **Section 4.** Section 12A.08.010 of the Seattle Municipal Code (Ordinance 102843 § 12A.08.010,
22 as last amended by Ordinance 115649 § 4) is further amended by adding subsection F as follows:

23 **12A.08.010 Definitions.**
24



1 A. A person is guilty of criminal mistreatment in the first degree if he or she is the parent of a
2 child, a person entrusted with the physical custody of a child or other dependent person, or a person
3 employed to provide to a child or dependent person the basic necessities of life and, with criminal
4 negligence, either causes substantial bodily harm or creates an imminent and substantial risk of
5 substantial bodily harm to a child or dependent person by withholding any of the basic necessities of
6 life.

7 B. Criminal mistreatment in the first degree is a gross misdemeanor.

8 C. A person is guilty of criminal mistreatment in the second degree if he or she is the parent of a
9 child, a person entrusted with the physical custody of a child or other dependent person, or a person
10 employed to provide to the child or other dependent person the basic necessities of life and, with
11 criminal negligence, either causes bodily injury or extreme emotional distress manifested by more than
12 transient physical symptoms or creates an imminent and substantial risk of bodily injury to a child or
13 dependent person by withholding any of the basic necessities of life.

14 D. Criminal mistreatment in the second degree is a misdemeanor.

15 E. This section does not apply to decisions to withdraw life support systems made in accordance
16 with RCW Chapter 7.70 or 70.122 by the dependent person, his or her legal surrogate or others with a
17 legal duty to care for the dependent person. This section does not apply when a terminally ill or
18 permanently unconscious person or his or her legal surrogate, as set forth in RCW Chapter 7.70,
19 requests, and the person receives, palliative care from a licensed home health agency, hospice agency,
20 nursing home, or hospital providing care under the medical direction of a physician. "Terminally ill"
21 and "permanently unconscious" have the same meaning as "terminal condition" and "permanent
22 unconscious condition" in RCW Chapter 70.122.
23
24



1 E. ((D-)) The defense to criminal mistreatment that the withholding of the basic necessities of
2 life is due to financial inability is available only if the person charged has made a reasonable effort to
3 obtain adequate assistance. This defense is available to a person employed to provide the basic
4 necessities of life only when the agreed-upon payment has not been made.

5 **Section 8.** Subsections C and D of Section 12A.24.025 of the Seattle Municipal Code
6 (Ordinance 113566 § 1, as last amended by Ordinance 117156 § 4) are each repealed

7 **Section 9.** Subsection A of Section 12A.24.150 of the Seattle Municipal Code (Ordinance
8 102843 § 12A.40.260 as last amended by Ordinance 116897 § 3) is further amended as follows:

9 **12A.24.150 Classification and penalty.**

10 A. An offense under Sections 12A.24.025, 12A.24.050, 12A.24.110, 12A.24.120, or 12A.24.130
11 is designated a violation and punishment therefor shall be as provided in Section 12A.02.080. A
12 violation of Section 12A.24.025 shall be deemed a class 3 civil infraction under RCW Chapter 7.80.

13 * * *

14 **Section 10.** This ordinance shall take effect and be in force thirty (30) days from and after its
15 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
16 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

17
18 Passed by the City Council the 12th day of August 2002, and signed by me in open
19 session in authentication of its passage this 12th day of August, 2002.

20 
21 _____
22 President _____ of the City Council

23 Approved by me this 19 day of August, 2002.



[Handwritten signature]

Mayor

Filed by me this 20th day of August, 2002.

[Handwritten signature]

City Clerk

(Seal)

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Seattle City Attorney

Thomas A. Carr

June 25, 2002

Honorable Peter Steinbrueck
President, Seattle City Council
1106 Municipal Building
Seattle, Washington 98104

Re: 2002 Criminal Code Update

Dear ^{Peter}~~Council President Steinbrueck~~:

I am enclosing for the City Council's consideration an ordinance making several changes to Seattle's criminal code to reflect changes made to the corresponding State statutes by during the last Legislative session and to comply with a recent court decision.

Sections 1 and 2 provide for a criminal prosecution of a person who refuses to sign or fails to respond to a notice of infraction. These provisions mirror the state statutes, and allow Seattle to retain the revenue from any fines imposed for these crimes. Sections 3, 4, 5 and 6 eliminate some definitions that are no longer used in our criminal code and change other definitions to correspond to the definitions under state law. Section 7 creates a new type of Criminal Mistreatment where the victim suffers or is placed in risk of less-serious bodily injury. Sections 8 and 9 change the classification of Drinking in Public from a crime with a maximum penalty of a \$100 fine to an infraction with a maximum penalty of a \$50 fine. This change is a response to a recent Supreme Court decision concluding that the decriminalization of this offense under state law in 1999 had the effect of decriminalizing our ordinance as well.

I would be happy to provide any further information to the Council or to the appropriate committee upon request.

Sincerely,

A handwritten signature in black ink that reads "Tom".

Thomas A. Carr
Seattle City Attorney



STATE OF WASHINGTON – KING COUNTY

--SS.

149046
City of Seattle, Clerk's Office

No. ORDINANCE IN FULL

Affidavit of Publication

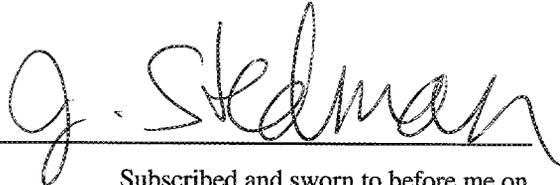
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORDINANCE 120887

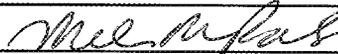
was published on

9/6/2002



Subscribed and sworn to before me on

9/6/2002



Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

