

Representative Brian S. King proposes the following substitute bill:

DUTY TO ASSIST IN AN EMERGENCY

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill relates to the duty to assist in an emergency.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ makes it a class B misdemeanor to fail to provide assistance in the event of a crime or another emergency subject to certain exceptions;
 - ▶ prohibits a prosecutor from basing charges for commission of an offense other than the offense created in this bill on an individual's failure to provide assistance;
 - ▶ amends provisions of the Good Samaritan Act to provide immunity from liability to a person who provides assistance in accordance with the requirements of this bill;
- and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **78B-4-501**, as renumbered and amended by Laws of Utah 2008, Chapter 3

28 ENACTS:

29 **76-9-1101**, Utah Code Annotated 1953

31 *Be it enacted by the Legislature of the state of Utah:*

32 **Part 11. Failure to Provide Assistance**

33 Section 1. Section **76-9-1101** is enacted to read:

34 **76-9-1101. Failure to provide assistance.**

35 (1) As used in this section:

36 (a) (i) "Assistance" means contacting paramedics, fire protection, law enforcement, or
37 other appropriate emergency services.

38 (ii) "Assistance" does not include action that places the individual taking the action, or
39 another individual, in danger.

40 (b) "Emergency" means that an individual is suffering from serious bodily injury and is
41 in need of assistance.

42 (c) "Serious bodily injury" means injury that involves a substantial risk of death,
43 unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted
44 loss or impairment of the function of a bodily member, organ, or mental faculty.

45 (2) An individual is guilty of a class B misdemeanor if the individual:

46 (a) observes that a crime has occurred or is occurring or that an emergency is
47 occurring;

48 (b) has personal knowledge that another individual has suffered serious bodily injury
49 resulting from a crime or emergency;

50 (c) is able to provide reasonable assistance to the individual described in Subsection
51 (2)(b); and

52 (d) fails to provide reasonable assistance to the individual described in Subsection
53 (2)(b).

54 (3) An individual is not guilty of violating Subsection (2) if another individual has
55 already provided or is providing reasonable assistance to the individual described in Subsection
56 (2)(b).

57 (4) Notwithstanding any contrary provision of state law, a prosecutor may not use an
 58 individual's violation of Subsection (2) as the basis for charging the individual with another
 59 offense.

60 (5) Subsection (2) does not apply to the extent that an individual is prohibited from
 61 providing assistance by a statutory or common law privilege.

62 Section 2. Section **78B-4-501** is amended to read:

63 **78B-4-501. Good Samaritan Act.**

64 (1) As used in this section:

65 (a) "Emergency" means an unexpected occurrence involving injury, threat of injury, or
 66 illness to a person or the public, including motor vehicle accidents, disasters, actual or
 67 threatened discharges, removal, or disposal of hazardous materials, and other accidents or
 68 events of a similar nature.

69 (b) "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or
 70 attempt to mitigate the effects of an emergency.

71 ~~[(+)] (2)~~ A person who renders emergency care at or near the scene of, or during, an
 72 emergency, gratuitously and in good faith, or as required under Section [76-9-1101](#), is not liable
 73 for any civil damages or penalties as a result of any act or omission by the person rendering the
 74 emergency care, unless the person is grossly negligent or caused the emergency. ~~[As used in~~
 75 ~~this section, "emergency" means an unexpected occurrence involving injury, threat of injury, or~~
 76 ~~illness to a person or the public, including motor vehicle accidents, disasters, actual or~~
 77 ~~threatened discharges, removal, or disposal of hazardous materials, and other accidents or~~
 78 ~~events of a similar nature. "Emergency care" includes actual assistance or advice offered to~~
 79 ~~avoid, mitigate, or attempt to mitigate the effects of an emergency.]~~

80 ~~[(2)] (3)~~ A person who gratuitously, and in good faith, assists governmental agencies or
 81 political subdivisions in the activities described in Subsections ~~[(2)] (3)~~(a) through (c) is not
 82 liable for any civil damages or penalties as a result of any act or omission unless the person
 83 rendering assistance is grossly negligent in:

84 (a) implementing measures to control the causes of epidemic and communicable
 85 diseases and other conditions significantly affecting the public health, or necessary to protect
 86 the public health as set out in Title 26A, Chapter 1, Local Health Departments;

87 (b) investigating and controlling suspected bioterrorism and disease as set out in Title

88 26, Chapter 23b, Detection of Public Health Emergencies Act; and

89 (c) responding to a national, state, or local emergency, a public health emergency as
90 defined in Section [26-23b-102](#), or a declaration by the President of the United States or other
91 federal official requesting public health-related activities.

92 [~~3~~] (4) The immunity in Subsection [~~2~~] (3) is in addition to any immunity or
93 protection in state or federal law that may apply.