

## HB0125S01 compared with HB0125

~~{deleted text}~~ shows text that was in HB0125 but was deleted in HB0125S01.

Inserted text shows text that was not in HB0125 but was inserted into HB0125S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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: \_\_\_\_\_

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#### 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

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- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

ENACTS:

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

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

### Part 11. Failure to Provide Assistance

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

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

(1) As used in this section:

~~(a) {i} "Assistance" means action that is reasonably likely to reduce the likelihood of an individual suffering serious bodily injury, reduce the extent to which an individual suffers serious bodily injury, or treat an individual who has suffered serious bodily injury.~~

~~———(ii)i "Assistance" ~~{includes}~~ means~~ contacting paramedics, fire protection, law enforcement, or other appropriate emergency services.

~~(~~{iii}~~ii) "Assistance" does not include action that places the individual taking the action, or another individual, in danger.~~

(b) "Emergency" means ~~‡~~

~~———(i) ‡ that an individual is suffering from serious bodily injury and is in need of assistance ~~‡; or~~.~~

~~{———(ii) an unexpected occurrence that is likely to result in serious bodily injury.~~

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

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

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(a) ~~{knows}~~ observes that a crime ~~{is about to be committed, is being committed, or has been committed, or knows}~~ has occurred or is occurring or that an emergency is occurring ~~{or has occurred}~~;

(b) ~~{knows}~~ has personal knowledge that another individual has suffered serious bodily injury ~~{or is about to suffer serious bodily injury }~~ resulting from ~~{the}~~ a crime or emergency;

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

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

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

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

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

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

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

(1) As used in this section:

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

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

~~{(+)}~~ (2) A person who renders emergency care at or near the scene of, or during, an emergency, gratuitously and in good faith, or as required under Section 76-9-1101, is not liable for any civil damages or penalties as a result of any act or omission by the person rendering the emergency care, unless the person is grossly negligent or caused the emergency. ~~[As used in~~

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~~this section, "emergency" means an unexpected occurrence involving injury, threat of injury, or illness to a person or the public, including motor vehicle accidents, disasters, actual or threatened discharges, removal, or disposal of hazardous materials, and other accidents or events of a similar nature. "Emergency care" includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the effects of an emergency.]~~

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

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

(b) investigating and controlling suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act; and

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

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

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**Legislative Review Note**

**Office of Legislative Research and General Counsel**