

Representative Brian S. King proposes the following substitute bill:

911 RESPONSIBILITIES IN AN EMERGENCY

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill relates to the duty to contact emergency services in an emergency.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes it a class B misdemeanor to fail to contact emergency services 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 contact emergency services;
- ▶ amends provisions of the Good Samaritan Act to provide immunity from liability to an individual who contacts emergency services in accordance with the requirements of this bill;
- ▶ addresses civil liability issues related to this bill; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **78B-4-501**, as last amended by Laws of Utah 2018, Chapter 62

30 ENACTS:

31 **76-9-1101**, Utah Code Annotated 1953



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

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

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

36 **76-9-1101. Failure to provide assistance.**

37 (1) As used in this section:

38 (a) (i) "Assistance" means making reasonable effort to contact paramedics, fire
39 protection, law enforcement, or other appropriate emergency services.

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

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

44 (c) "Legal privilege" means any privilege designated by common law, statute, or rule of
45 evidence.

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

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

50 (a) observes that a crime has occurred or is occurring or that an emergency is
51 occurring;

52 (b) has personal knowledge that another individual is suffering serious bodily injury
53 resulting from a crime or emergency;

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

56 (d) fails to provide reasonable assistance to the individual described in Subsection

57 (2)(b).

58 (3) An individual is not guilty of violating Subsection (2) if the individual reasonably
59 believes another individual has, or likely has, already provided or is providing reasonable
60 assistance to the individual described in Subsection (2)(b).

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

64 (5) This section does not create an independent basis for civil liability for failure to
65 provide the assistance described in this section.

66 (6) The fact that an individual is charged ~~H~~→ or convicted ←~~H~~ with a crime under this
66a section may not be
67 used to establish that the individual violated a duty on which a claim for personal injuries may
68 be based.

69 (7) Subsection (2) does not apply to the extent that an individual is prohibited from
70 providing assistance by a legal privilege.

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

72 **78B-4-501. Good Samaritan Law.**

73 (1) As used in this section:

74 (a) "Child" means an individual of such an age that a reasonable person would perceive
75 the individual as unable to open the door of a locked motor vehicle, but in any case younger
76 than 18 years of age.

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

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

83 (d) "First responder" means a state or local:

84 (i) law enforcement officer, as defined in Section [53-13-103](#);

85 (ii) firefighter, as defined in Section [34A-3-113](#); or

86 (iii) emergency medical service provider, as defined in Section [26-8a-102](#).

87 (e) "Motor vehicle" means the same as that term is defined in Section [41-1a-102](#).

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

92 (3) (a) A person who gratuitously, and in good faith, assists a governmental agency or
93 political subdivision in an activity described in Subsections (3)(a)(i) through (iii) is not liable
94 for any civil damages or penalties as a result of any act or omission, unless the person
95 rendering assistance is grossly negligent in:

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

99 (ii) investigating and controlling suspected bioterrorism and disease as set out in Title
100 26, Chapter 23b, Detection of Public Health Emergencies Act; and

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

104 (b) The immunity in this Subsection (3) is in addition to any immunity or protection in
105 state or federal law that may apply.

106 (4) (a) A person who uses reasonable force to enter a locked and unattended motor
107 vehicle to remove a confined child is not liable for damages in a civil action if all of the
108 following apply:

109 (i) the person has a good faith belief that the confined child is in imminent danger of
110 suffering physical injury or death unless the confined child is removed from the motor vehicle;

111 (ii) the person determines that the motor vehicle is locked and there is no reasonable
112 manner in which the person can remove the confined child from the motor vehicle;

113 (iii) before entering the motor vehicle, the person notifies a first responder of the
114 confined child;

115 (iv) the person does not use more force than is necessary under the circumstances to
116 enter the motor vehicle and remove the confined child from the vehicle; and

117 (v) the person remains with the child until a first responder arrives at the motor vehicle.

118 (b) A person is not immune from civil liability under this Subsection (4) if the person

119 fails to abide by any of the provisions of Subsection (4)(a) or commits any unnecessary or
120 malicious damage to the motor vehicle.