Ordinance No. 3566

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

Amends Ord. 3455
ORDINANCE NO. 3566

AN ORDINANCE of the City Council of the City of Kent, Washington, amending section 9.02.25 of the Kent City Code, entitled “Neglect of a child or dependent person,” by adding two additional subsections pertaining to negligent behavior.

WHEREAS, many cases of child neglect or neglect of dependant persons go unprosecuted because they do not meet the statutory definition of child abandonment in RCW 9A.42.060, RCW 9A.42.070, and RCW 9A.42.080; and

WHEREAS, because these cases do not meet the state statutory definition of child abandonment, the City has, by previous ordinance, made it a crime to withhold the basic necessities of life or to maintain living conditions that would endanger these children or dependent persons; and

WHEREAS, some children and dependant persons are also put at risk when they are left unattended and unsupervised for minutes to hours at a time, leaving them vulnerable and at risk to bodily injury (for example, and without limitation, by leaving children asleep and unattended at home, or failing to supervise at home, allowing a child to leave the home and wander away); and

1 Neglect of a Child or Dependent Person
WHEREAS, Section 9.02.25 of the Kent City Code, as currently enacted, does not pertain to issues of neglectful supervision and lack of supervision; therefore, the revisions are necessary in order to criminalize this neglectful supervision and lack of supervision; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 9.02.25 of the Kent City Code, entitled “Neglect of a child or dependent person,” is hereby amended by adding two additional subsections to read as follows:

Sec. 9.02.25. Neglect of a child or dependent person.
A. A person is guilty of the crime of neglect of a child or dependent person if the person is a parent of a child, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or dependent person any of the basic necessities of life, and with criminal negligence, the person:
   1. Withholds any of the basic necessities of life; or
   2. Maintains living conditions that place the child or dependent person at a significant risk of disease, illness, or bodily injury; or
   3. Supervises the child or dependent person and:
      a. as a result of such supervision, the child or dependent person suffers bodily injury; or
      b. the supervision creates a substantial risk that the child or dependent person will suffer bodily injury; or
   4. Fails to supervise the child or dependent person and:
      a. as a result of such failure, the child or dependent person suffers bodily injury; or
      b. such failure creates a substantial risk that the child or dependent person will suffer bodily injury.

2 Neglect of a Child or Dependent Person
B. In any prosecution for neglect of a child or dependent person, it shall be a defense that the withholding of the basic necessities of life or the maintenance of living conditions that place the child or dependent person at a significant risk of disease, illness, or bodily injury is due to financial inability only if the person charged has made a reasonable effort to obtain adequate assistance. This defense is available to a person employed to provide the basic necessities of life only when the agreed-upon payment has not been made.

C. A person is criminally negligent or acts with criminal negligence when he or she fails to be aware of a substantial risk that a wrongful act may occur and his or her failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable person would exercise in the same situation.

D. Child means a person under eighteen (18) years of age.

E. Dependent person means a person who, because of physical or mental disability or because of advanced age, is dependent upon another person to provide the basic necessities of life. A resident of a nursing home as defined in RCW 18.51.010, a resident of an adult family home as defined in RCW 70.128.010, and a frail elderly or vulnerable adult as defined in RCW 74.34.020(8) is presumed to be a dependent person for purposes of this section.

F. For the purposes of this section, bodily injury means physical pain, injury, illness, or impairment of physical condition that is more than minor or transient.

G. Neglect of a child or dependent person is a gross misdemeanor.

SECTION 2. – Severability. If any one or more sections, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance and the same shall remain in full force and effect.
SECTION 3. Effective Date. This Ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

ROGER LUBOVICH, CITY ATTORNEY

PASSED: 7 day of August, 2001

I hereby certify that this is a true copy of Ordinance No. 3566 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER (SEAL)
BRENDA JACOBER, CITY CLERK