

# SENATE BILL REPORT

## HB 1108

---

---

As of March 29, 2013

**Title:** An act relating to rape in the third degree and indecent liberties.

**Brief Description:** Modifying the definition of rape in the third degree and indecent liberties.

**Sponsors:** Representatives Goodman, Jenkins, Wylie, Pedersen, Green, Roberts, Pettigrew, Maxwell, Orwall, Appleton, Ryu, Morrell and Bergquist.

**Brief History:** Passed House: 3/11/13, 96-1.

**Committee Activity:** Law & Justice: 3/29/13.

---

### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Sharon Swanson (786-7447)

**Background:** Rape in the Third Degree. A person commits the crime of rape in the third degree if that person is not married to the victim, and that person engages in sexual intercourse with the victim without consent or when there is a threat of substantial unlawful harm to the property rights of the victim. Rape in the third degree is a class C felony with a seriousness level of V. It is also a three strikes offense under the Three Strikes and You are Out persistent offender statute.

Indecent Liberties. An offender commits the crime of indecent liberties if the offender causes a victim, who is not the offender's spouse, to have sexual contact with the perpetrator or another person: (1) by forcible compulsion; (2) when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; (3) when the victim is developmentally disabled and the perpetrator, who is not married to the victim, has supervisory authority over the victim or was providing transportation (within the course of his or her employment) to the victim at the time of the offense; (4) when the perpetrator is a health care provider and the sexual contact occurs during a treatment session, consultation, interview, or examination; (5) when the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator, who is not married to the victim, has supervisory authority over the victim; or (6) when the victim is a frail elder or vulnerable adult and the perpetrator, who is not married to the victim, has a significant relationship to the victim or was providing transportation within the course of employment to the victim at the time of the offense. Indecent liberties with forcible compulsion is a seriousness level X, class A felony offense. It is also a two strikes sex offense under the Two

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Strikes and You are Out persistent offender statute. Indecent liberties without forcible compulsion is a seriousness level VII, class B felony offense. It is also a three strikes offense.

Due to the statutory marital exemption in both statutes a perpetrator cannot be convicted of a rape in the third degree or an indecent liberties offense if the perpetrator is married to the victim.

**Summary of Bill:** The statutory exemption that prohibits a victim's spouse from being convicted of Rape in the third degree or Indecent Liberties offense is removed from statute. The crimes of Rape in the third degree and Indecent Liberties can occur and can be prosecuted in cases where the perpetrator is married to the victim.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Washington has fallen behind on the issue of the marital rape exemption since 1983. A total of 33 states removed the exemption from their books but Washington still has the exemption for Rape 3 and indecent liberties. Prosecutors and judges express great frustration when they cannot pursue justice for a victim of rape simply because the offender is a spouse. Rape is rape and no means no. Studies show that victims suffer an exacerbated level of trauma when the offender is an intimate partner. Marriage is no reason to allow a person to get away with raping another person. The message this type of exemption sends is that victims are not of equal status in our state. When a victim of a sexual assault has the courage to come forward, seek help, and report their attack, law enforcement and the courts should be in a position to help that person. Unfortunately, we cannot charge the crime as it should be charged when it comes to rape of a spouse. The message to the victim is that what happened to you is not a crime in our state. Rape is no less of a crime when it happens in the confines of a marital relationship.

**Persons Testifying:** PRO: Representative Goodman, prime sponsor; Andrea Piper-Wentland, WA Coalition of Sexual Assault Programs; Gabrielle Charlton, King County Prosecutor's Office; Tina Harris, Renton Police Dept.