

SENATE BILL REPORT

SB 5577

AS PASSED SENATE, MARCH 15, 1993

Brief Description: Changing sex offense provisions for perpetrators who are health care providers or persons with supervisory authority.

SPONSORS: Senator A. Smith

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; McCaslin, Nelson, Niemi, and Roach.

Staff: Jon Carlson (786-7459)

Hearing Dates: February 18, 1993; February 24, 1993

HOUSE COMMITTEE ON JUDICIARY

BACKGROUND:

Under current law, a person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person: 1) by forcible compulsion; 2) when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; or 3) when the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim.

A person is guilty of indecent liberties when he or she knowingly causes another person who is not a spouse to have sexual contact with the person: 1) by forcible compulsion; 2) when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; or 3) when the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim.

The existing rape and indecent liberties statutes do not address the situation where sexual intercourse or sexual contact occurs during the delivery of health care services, when the health care provider is invariably in a position of power and can exert undue influence or control over his or her patient.

SUMMARY:

The second degree rape statute and the indecent liberties statute are amended to address situations involving sexual intercourse or sexual contact between health care providers and their patients.

A health care provider is guilty of rape in the second degree when he or she engages in sexual intercourse with a client during a treatment, consultation, interview, or examination. A person is guilty of rape in the second degree if he or she: 1) engages in sexual intercourse with a resident of a facility for mentally disordered or chemically dependent persons; 2) is not married to the victim; and 3) is in a position of supervisory authority over the victim.

The indecent liberties statute is amended in the same manner as the rape statute to include health care providers and persons having supervisory authority over mentally disordered or chemically dependent persons.

Definitions are provided for "mentally disordered person," "chemically dependent person," health care provider," and "treatment."

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

These sanctions are appropriate for those health care providers who abuse their positions of authority and sexually exploit their clients.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Becky Roe, King County Prosecutor's office; Donna Deleno, Washington Coalition of Sexual Assault Programs; Detective O'Toole, Andrea Evarts, Kirkland Police; Ione George, Kitsap County Prosecutor's office; Shirley J. Siegal, Stop Abuse by Counselors; Bob Nicoloff, Department of Health, Professional Licensing

HOUSE AMENDMENT(S):

It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse or contact with the knowledge that the sexual intercourse or contact was not for the purpose of treatment.