

HOUSE BILL ANALYSIS

HB 1205

Title: An act relating to sex offenses against children.

Brief Description: Prohibiting specified sex offenses against children.

Sponsors: Representatives Lambert, Koster, McMorris, L. Thomas, Pennington, Sump, Carrell, Johnson, Sheahan, Cooke, Schoesler, Mielke, McDonald, Zellinsky and Thompson.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Edie Adams (786-7180).

Background: The crime of rape of a child involves sexual intercourse with a child. The crime of child molestation involves sexual contact with a child. There are three degrees of the crimes of rape of a child and child molestation, based on the age of the victim and the age of the perpetrator.

A person is guilty of first-degree rape of a child if the person has sexual intercourse with a child under the age of 12 and the person is at least 24 months older than the child. Rape of a child in the first degree is a class A felony and is ranked at seriousness level XI under the Sentencing Reform Act. A person is guilty of first-degree child molestation if the person has sexual contact with a child under the age of 12 and the person is at least 36 months older than the child. Child molestation in the first degree is a class A felony and is ranked at seriousness level X.

Second-degree rape of a child is committed if the victim is at least 12, but less than 14, and the perpetrator is at least 36 months older than the victim. Rape of a child in the second degree is a class A felony and is ranked at seriousness level X. Child molestation in the second degree includes the same age ranges as rape of a child in the second degree and is a class B felony ranked at seriousness level VII.

Third-degree rape of a child is committed if the victim is at least 14, but less than 16, and the perpetrator is at least 48 months older than the victim. Rape of a child in the third degree is a class C felony and is ranked at seriousness level VI. Child molestation in the third degree includes the same age ranges as rape of a child in the third degree and is a class C felony ranked at seriousness level V.

Sexual intercourse or sexual contact with a minor who is 16 or 17 is not a crime, except under one circumstance. Sexual intercourse or sexual contact with a minor is

a crime if the minor is at least age 16, but less than 18, and the perpetrator is at least 60 months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship to engage in or cause the minor to have sexual intercourse (first degree) or sexual contact (second degree). Sexual misconduct with a minor in the first degree is a class C felony ranked at seriousness level V and in the second degree is a gross misdemeanor.

None of these crimes applies if the child and the perpetrator are married.

Summary of Bill: Sexual intercourse or sexual conduct with a minor who is 16 or 17 is criminalized under certain circumstances.

A person commits the crime of fourth-degree rape of a child if the person has sexual intercourse with a child who is 16 or 17 and the person is at least 4 years older than the child. Fourth-degree rape of a child is a gross misdemeanor.

A person commits the crime of fourth-degree child molestation if the person has sexual contact with a child who is 16 or 17 and the person is at least 4 years older than the child.

Fourth-degree child molestation is a gross misdemeanor.

Neither of these crimes applies if the child and the adult are married. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the defendant did not know the victim was 16 or 17.

Fiscal Note: Requested January 27, 1997.

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

Office of Program Research