

HOUSE BILL REPORT

EHB 1205

As Passed House
January 16, 1998

Title: An act relating to sex offenses against children.

Brief Description: Prohibiting specified sex offenses against children.

Sponsors: By House Committee on Law & Justice (originally sponsored by Representatives Lambert, Koster, McMorris, L. Thomas, Pennington, Sump, Carrell, Johnson, Sheahan, Cooke, Schoesler, Mielke, McDonald, Zellinsky and Thompson).

Brief History:

Committee Activity:

Law & Justice: 1/28/97, 1/29/97 [DP].

Floor Activity:

Passed House: 3/10/97, 95-0;

Passed House: 1/16/98, 88-0.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 12 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff and Sherstad.

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 5 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 5 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.

Appropriation: None.

Fiscal Note: Requested on January 27, 1997.

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

Testimony For: Sixteen- and 17-year-old girls need protection from older men who take advantage of their immaturity and vulnerability and pressure them into sexual relationships. Older men prey on young girls, often getting them pregnant and then slipping away without being held responsible for their actions. The consequences of teen pregnancy are significant, and the majority of teen pregnancies involve an adult father. This bill will make the older men who prey on teen girls accountable and will provide a mechanism to show teenagers that this behavior is not right and that they have power to get out of these relationships.

Testimony Against: The Legislature should think twice before criminalizing conduct that the general public might not think is criminal behavior that deserves incarceration.

Testified: Representative Lambert, prime sponsor; Donna Fish, teacher (pro); Michelle Freeman, teen parent (pro); Charlie Langdon, Advancing Solutions to Adolescent Pregnancy (pro); Carline Lundmark, Crisis Pregnancy Center (pro, with suggestions); Beth Chase, citizen and also representing Life Choices of King County (pro); and Tom McBride, Washington Association of Prosecuting Attorneys (con).