

HOUSE BILL ANALYSIS
SSB 6518

Title: An act relating to rape in the first degree.

Brief Description: Increasing the degree of rape when the perpetrator incapacitates the victim.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Roach, Benton, Long, Oke, Zarelli, Rossi, Sellar, Snyder, Johnson, Horn, McDonald, Hale, Strannigan, McCaslin, Prentice, Schow, Fraser, Deccio, Swecker, Morton, Goings, Bauer, Rasmussen, and Haugen).

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Hearing Date: February 24, 1998.

Prepared By: Mark G. Hamilton, Counsel (786-7310).

Background: *Rape in the First Degree.* Rape in the first degree occurs when a person engages in sexual intercourse by forcible compulsion, when the perpetrator (or an accessory) uses a deadly weapon (or what appears to be a deadly weapon), kidnaps the victim, inflicts serious physical injury, or feloniously enters a building or vehicle where the victim is located.

Rape in the Second Degree. Rape in the second degree occurs when a 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;
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;
4. When the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse 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 is a person who is not married to the victim and has supervisory authority over the victim; or
6. When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim.

Punishments for Rape. Both rape in the first and second degrees are class A felonies and “strikes” under the persistent offender provisions. Rape in the first degree is seriousness level XII under the sentencing guidelines,

punishable by 93 to 123 months imprisonment for the first offense. Rape in the second degree is seriousness level XI, punishable by 78 to 102 months imprisonment for the first offense. An offender convicted of either rape in the first or second degree is not eligible for the Special Sex Offender Sentencing Alternative.

Summary: The definition of rape in the first degree is changed to include rape when the victim is incapable of consent by reason of physical helplessness or mental incapacity caused by the actions of the perpetrator.

Rules Authority: No.

Fiscal Note: Available.

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