

HOUSE BILL REPORT

SSB 6518

As Passed House - Amended:

March 4, 1998

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).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/24/98, 2/25/98 [DPA].

Floor Activity:

Passed House - Amended: 3/4/98, 98-0.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass as amended. Signed by 12 members: Representatives Ballasiotes, Chair; Benson, Vice Chair; Koster, Vice Chair; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; Hickel; McCune; Mitchell; Radcliff; and Sullivan.

Staff: Mark Hamilton (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 of Bill: *Rape in the First Degree Altered.* The crime of rape in the first degree is altered to clarify that infliction of serious physical injury includes any physical injury which renders the victim unconscious.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill addresses situations in which the perpetrator totally incapacitates the victim, thereby rendering consent (or refusal to consent) impossible. It closes current loopholes, by raising the crime to a first degree offense when the perpetrator *causes* the incapacity.

Testimony Against: None.

Testified: Senator Pam Roach, prime sponsor; Roy Delay, representing SAFER (Strike Against Fear « Everyone's Responsibility); and Tom McBride, Washington Association

of Prosecuting Attorneys.