

# SENATE BILL REPORT

## SHB 1587

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As of March 28, 1997

**Title:** An act relating to sexual exploitation of minors.

**Brief Description:** Penalizing parental voyeurism.

**Sponsors:** House Committee on Law & Justice (originally sponsored by Representatives Lantz, McDonald, Cody, Skinner, Mason, H. Sommers, Ogden, Sheahan, Bush, Blalock, Dickerson, Conway, O'Brien, Linville, Keiser, Costa, Kessler, Kenney, Regala and Cooper).

**Brief History:**

**Committee Activity:** Law & Justice: 4/2/97.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Mal Murphy (786-7412)

**Background:** A person is guilty of sexual exploitation of a minor, a class B felony, if the person:

- compels a minor to engage in sexually explicit conduct knowing that it will be photographed or part of a live performance;
- aids, invites, employs, authorizes, or causes a minor to engage in sexually explicit conduct, knowing that the conduct will be photographed or part of a live performance; or
- is the parent, guardian, or custodian of the minor and permits the minor to engage in sexually explicit conduct, knowing that the conduct will be photographed or part of a live performance.

Several recent court of appeals cases have held that the sexual exploitation statute does not apply to voyeurism or the surreptitious photography of a nude child, unless other factors are present. Although this type of behavior might lead to civil liability for the tort of "intrusion" on a person's privacy, there is no crime that covers this behavior.

**Summary of Bill:** The crime of sexual exploitation of a minor is amended to provide a new circumstance under which a parent, guardian, or custodian of a minor commits the crime.

A parent, guardian, or custodian of a minor is guilty of sexual exploitation of the minor if the parent, guardian, or custodian, for the purpose of the sexual stimulation of the viewer, observes or photographs the minor while the minor is engaged in sexually explicit conduct, whether the viewer is the parent, guardian, custodian, or another person.

A new crime of "surreptitious sexual exploitation of a minor" is created and classified as a class C felony. A person is guilty of surreptitious sexual exploitation of a minor if, for the purpose of arousing or gratifying the sexual desire of any person, the person views, photographs, or films a minor who is nude or partially nude, without the minor's knowledge or consent, and if the minor is in a place where the minor would have a reasonable expectation of privacy.

Definitions are provided for "full or partial nudity," "photographs," "films," and "views." A place where a person would have a reasonable expectation of privacy is defined as a place where the person would believe that he or she could disrobe without being photographed or filmed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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