

SENATE BILL REPORT

SHB 2573

As Reported By Senate Committee On:
Law & Justice, February 27, 1998

Title: An act relating to custodial sexual misconduct.

Brief Description: Defining the crime of custodial sexual misconduct.

Sponsors: House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lambert, Carrell, Costa and Thompson).

Brief History:

Committee Activity: Law & Justice: 2/19/98, 2/27/98 [DPA].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Roach, Chair; Fairley, Kline, Long, Stevens and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: While the current sex offense statutes apply, there is no specific crime prohibiting sexual intercourse or contact between a correctional or law enforcement officer and a person detained, arrested, or otherwise in custody.

Current applicants for paid or volunteer positions, which will or may have access to children under 16 years of age, developmentally disabled persons, or vulnerable adults, are subject to background checks including for crimes against children or other persons.

Current civil statutes provide for indemnification in specified instances, but there is no specific provision for employer indemnification in cases of sexual misconduct of correctional or law enforcement officers.

Summary of Amended Bill: A new crime of custodial sexual assault is created. A person commits the crime by having sexual intercourse with another person (a) who is a resident of an adult or juvenile correctional facility or work release facility and the offender is a person with supervisory authority over the victim or (b) who is under arrest or in the custody of a law enforcement officer and the offender is a law enforcement officer. Consent of the victim is not a defense. The offense is a class C felony ranked at level V.

Custodial sexual misconduct is added to the list of crimes against children or other persons and the list of offenses for which victims can receive services to victims of sexual assault.

Amended Bill Compared to Substitute Bill: The provisions providing for mandatory termination of employment and indemnification of the state are eliminated.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: There is no such thing as consent in these situations. The perpetrators should be terminated and the taxpayers should not have to pay for their misdeeds.

Testimony Against: None.

Testified: Representative Lambert, prime sponsor (pro).