

SENATE BILL REPORT

SB 6518

As Reported By Senate Committee On:
Law & Justice, February 5, 1998

Title: An act relating to rape.

Brief Description: Increasing penalties for second degree rape.

Sponsors: 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: Law & Justice: 1/22/98, 2/5/98 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6518 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

Staff: Aldo Melchiori (786-7439)

Background: Rape in the first degree is committed by a person who engages in sexual intercourse by forcible compulsion where the rapist 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 is committed by a person who engages in sexual intercourse by forceable compulsion, when the victim is incapable of consent by reason of physical helplessness or mental incapacity, when the victim is developmentally disabled by a person with supervisory authority, when the perpetrator is a health care provider and the victim is a patient or client and the rape occurs during treatment, or when the victim is a resident of a facility for mentally disordered or chemically dependant persons and the rapist has supervisory authority.

Both degrees of rape are class A felonies and "strikes" under the persistent offender provisions. Rape in the first degree is sentenced at level XII (93 to 123 months for a first offense). Rape in the second degree is sentenced at level XI (78 to 102 months for a first offense). Offenders convicted for either degree of rape are not eligible for the Special Sex Offender Sentencing Alternative.

It has been proposed that when a perpetrator renders the victim incapable of consent through some action, it would be more appropriate to consider the offense rape in the first degree.

Summary of Substitute Bill: When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated because of the actions of the perpetrator, it is rape in the first degree.

Substitute Bill Compared to Original Bill: The original bill changed the statutory scheme so that there were only two degrees of rape. The prior first degree and second degree rape statutes were consolidated into rape in the first degree.

Rape in the second degree occurred when a person engaged in sexual intercourse with another person not married to the perpetrator (a) when the victim did not consent and clearly communicated the lack of consent by words or conduct or (b) there was a threat of substantial unlawful harm to property rights of the victim. Rape in the second degree remained a class C felony, ranked at level V on the sentencing grid.

Appropriation: None.

Fiscal Note: Requested on January 14, 1998.

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

Testimony For: The language gives guidance to prosecutors making charging decisions. Violent criminals need to be kept off the street. Proportionality is provided for crimes during which the offender affirmatively acts to disable a victim versus when the offender happens upon a hapless victim.

Testimony Against: None.

Testified: PRO: Steve Jones; Cris Owsley; Barbara Eacret; Maggie Warren, SAFER.