
SENATE BILL 5010

State of Washington

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By Senators Kohl-Welles, Hargrove, Long, Goings, Swecker, Winsley, Oke, Benton and Costa

Read first time 01/11/1999. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to sexual misconduct by employees of custodial
2 agencies; adding a new section to chapter 13.40 RCW; adding a new
3 section to chapter 72.09 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.40 RCW
6 to read as follows:

7 (1) When the secretary has reasonable cause to believe that sexual
8 intercourse or sexual contact between an employee and an offender has
9 occurred, the secretary shall immediately suspend the employee.

10 (2) The secretary shall immediately institute proceedings to
11 terminate the employment of any person:

12 (a) Who is found by the department, based on a preponderance of the
13 evidence, to have had sexual intercourse or sexual contact with the
14 offender; or

15 (b) Upon a guilty plea or conviction for any crime specified in
16 chapter 9A.44 RCW when the victim was an offender.

17 (3) When the secretary has reasonable cause to believe that sexual
18 intercourse or sexual contact between the employee of a contractor and
19 an offender has occurred, the secretary shall require the employee of

1 a contractor to be immediately removed from any employment position
2 which would permit the employee to have any access to any offender.

3 (4) The secretary shall disqualify for employment with a contractor
4 in any position with access to an offender, any person:

5 (a) Who is found by the department, based on a preponderance of the
6 evidence, to have had sexual intercourse or sexual contact with the
7 offender; or

8 (b) Upon a guilty plea or conviction for any crime specified in
9 chapter 9A.44 RCW when the victim was an offender.

10 (5) The secretary, when considering the renewal of a contract with
11 a contractor who has taken action under subsection (3) or (4) of this
12 section, shall require the contractor to demonstrate that there has
13 been significant progress made in reducing the likelihood that any of
14 its employees will have sexual intercourse or sexual contact with an
15 offender. The secretary shall examine whether the contractor has taken
16 steps to improve hiring, training, and monitoring practices and whether
17 the employee remains with the contractor. The secretary shall not
18 renew a contract unless he or she determines that significant progress
19 has been made.

20 (6)(a) For the purposes of RCW 50.20.060, a person terminated under
21 this section shall be considered discharged for misconduct.

22 (b)(i) The department may, within its discretion or upon request of
23 any member of the public, release information to an individual or to
24 the public regarding any person or contract terminated under this
25 section.

26 (ii) An appointed or elected public official, public employee, or
27 public agency as defined in RCW 4.24.470 is immune from civil liability
28 for damages for any discretionary release of relevant and necessary
29 information, unless it is shown that the official, employee, or agency
30 acted with gross negligence or in bad faith. The immunity provided
31 under this section applies to the release of relevant and necessary
32 information to other public officials, public employees, or public
33 agencies, and to the public.

34 (iii) Except as provided in chapter 42.17 RCW, or elsewhere,
35 nothing in this section shall impose any liability upon a public
36 official, public employee, or public agency for failing to release
37 information authorized under this section. Nothing in this section
38 implies that information regarding persons designated in subsection (2)

1 of this section is confidential except as may otherwise be provided by
2 law.

3 (7) The department shall adopt rules to implement this section.
4 The rules shall reflect the legislative intent that this section
5 prevents individuals who are employed by the department or a contractor
6 of the department from having sexual intercourse or sexual contact with
7 offenders. The rules shall also reflect the legislative intent that
8 when a person is employed by the department or a contractor of the
9 department, and has sexual intercourse or sexual contact with an
10 offender against the employed person's will, the termination provisions
11 of this section shall not be invoked.

12 (8) As used in this section:

13 (a) "Offender" means a person under the jurisdiction or supervision
14 of the department; and

15 (b) "Sexual intercourse" and "sexual contact" have the meanings
16 provided in RCW 9A.44.010.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.09 RCW
18 to read as follows:

19 (1) When the secretary has reasonable cause to believe that sexual
20 intercourse or sexual contact between an employee and an inmate has
21 occurred, the secretary shall immediately suspend the employee.

22 (2) The secretary shall immediately institute proceedings to
23 terminate the employment of any person:

24 (a) Who is found by the department, based on a preponderance of the
25 evidence, to have had sexual intercourse or sexual contact with the
26 inmate; or

27 (b) Upon a guilty plea or conviction for any crime specified in
28 chapter 9A.44 RCW when the victim was an inmate.

29 (3) When the secretary has reasonable cause to believe that sexual
30 intercourse or sexual contact between the employee of a contractor and
31 an inmate has occurred, the secretary shall require the employee of a
32 contractor to be immediately removed from any employment position which
33 would permit the employee to have any access to any inmate.

34 (4) The secretary shall disqualify for employment with a contractor
35 in any position with access to an inmate, any person:

36 (a) Who is found by the department, based on a preponderance of the
37 evidence, to have had sexual intercourse or sexual contact with the
38 inmate; or

1 (b) Upon a guilty plea or conviction for any crime specified in
2 chapter 9A.44 RCW when the victim was an inmate.

3 (5) The secretary, when considering the renewal of a contract with
4 a contractor who has taken action under subsection (3) or (4) of this
5 section, shall require the contractor to demonstrate that there has
6 been significant progress made in reducing the likelihood that any of
7 its employees will have sexual intercourse or sexual contact with an
8 inmate. The secretary shall examine whether the contractor has taken
9 steps to improve hiring, training, and monitoring practices and whether
10 the employee remains with the contractor. The secretary shall not
11 renew a contract unless he or she determines that significant progress
12 has been made.

13 (6)(a) For the purposes of RCW 50.20.060, a person terminated under
14 this section shall be considered discharged for misconduct.

15 (b)(i) The department may, within its discretion or upon request of
16 any member of the public, release information to an individual or to
17 the public regarding any person or contract terminated under this
18 section.

19 (ii) An appointed or elected public official, public employee, or
20 public agency as defined in RCW 4.24.470 is immune from civil liability
21 for damages for any discretionary release of relevant and necessary
22 information, unless it is shown that the official, employee, or agency
23 acted with gross negligence or in bad faith. The immunity provided
24 under this section applies to the release of relevant and necessary
25 information to other public officials, public employees, or public
26 agencies, and to the public.

27 (iii) Except as provided in chapter 42.17 RCW, or elsewhere,
28 nothing in this section shall impose any liability upon a public
29 official, public employee, or public agency for failing to release
30 information authorized under this section. Nothing in this section
31 implies that information regarding persons designated in subsection (2)
32 of this section is confidential except as may otherwise be provided by
33 law.

34 (7) The department shall adopt rules to implement this section.
35 The rules shall reflect the legislative intent that this section
36 prevents individuals who are employed by the department or a contractor
37 of the department from having sexual intercourse or sexual contact with
38 inmates. The rules shall also reflect the legislative intent that when
39 a person is employed by the department or a contractor of the

1 department, and has sexual intercourse or sexual contact with an inmate
2 against the employed person's will, the termination provisions of this
3 section shall not be invoked.

4 (8) As used in this section:

5 (a) "Inmate" means an inmate as defined in RCW 72.09.015 or a
6 person under the supervision of the department; and

7 (b) "Sexual intercourse" and "sexual contact" have the meanings
8 provided in RCW 9A.44.010.

9 NEW SECTION. **Sec. 3.** Nothing in section 1 or 2 of this act
10 affects any collective bargaining agreement in place on the effective
11 date of this act.

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