

5234-S

Sponsor(s): Senate Committee on Judiciary (originally sponsored by Senators Long, Horn, Kline, Gardner, McCaslin, Zarelli, Roach, Hargrove, Kohl-Welles, Haugen, Franklin, Stevens, Thibaudeau, Oke, Winsley, Costa and Benton; by request of Department of Corrections)

Brief Title: Defining the crime of custodial sexual misconduct.

**SB 5234-S - DIGEST**

(DIGEST AS ENACTED)

Provides that a person is guilty of custodial sexual misconduct in the first degree when the person has sexual intercourse with another person when: (1) The victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities, or is under correctional supervision; and

(2) the perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the resident reasonably believes the perpetrator has, the ability to influence the terms, conditions, length, or fact of incarceration or correctional supervision; or

(3) the victim is being detained, under arrest or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.

Declares that consent of the victim is not a defense to a prosecution under this act.

Declares that custodial sexual misconduct in the first degree is a class C felony.

Declares that a person is guilty of custodial sexual misconduct in the second degree when the person has sexual contact with another person when: (1) The victim is a resident of a state, county, or city adult or juvenile correctional facility, including but not limited to jails, prisons, detention centers, or work release facilities, or is under correctional supervision; and

(2) the perpetrator is an employee or contract personnel of a correctional agency and the perpetrator has, or the resident reasonably believes the perpetrator has, the ability to influence the terms, conditions, length, or fact of incarceration or correctional supervision; or

(3) the victim is being detained, under arrest, or in the custody of a law enforcement officer and the perpetrator is a law enforcement officer.

Provides that consent of the victim is not a defense to a prosecution under this act.

Provides that custodial sexual misconduct in the second degree is a gross misdemeanor.

Directs the department to investigate any alleged violations of this act that are alleged to have been committed by an employee or contract personnel of the department, to determine whether there is probable cause to believe that the allegation is true before reporting the alleged violation to a prosecuting attorney.

