

HOUSE BILL REPORT

SHB 1091

As Passed House:

March 9, 2001

Title: An act relating to sexual misconduct with a minor.

Brief Description: Changing sexual misconduct laws with regard to school employees.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lambert, H. Sommers, Miloscia, Cairnes, Schindler, Talcott and Mielke).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/29/01, 2/7/01 [DPS].

Floor Activity:

Passed House: 3/9/01, 98-0.

Brief Summary of Substitute Bill

- Changes the elements of first and second degree sexual misconduct with a minor as it applies in the case of school employees and students.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Ahern, Republican Vice Chair; Lovick, Democratic Vice Chair; Cairnes, Kagi, Kirby and Morell.

Staff: Jean Ann Quinn (786-7310).

Background:

Sexual misconduct with a minor is committed if the victim is 16 or 17 years old and the perpetrator is at least five years older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship to engage in sexual intercourse (first degree) or sexual contact (second degree) with the victim. The crime is also committed if the perpetrator causes the minor to have sexual intercourse or sexual

contact with another minor. It is not a crime if the child and the perpetrator are married.

Sexual misconduct with a minor in the first degree is a class C felony, ranked at seriousness level V, and in the second degree is a gross misdemeanor.

The term "significant relationship" as it applies in this context means a situation in which the perpetrator is a person who is responsible for providing education, health, welfare, or organized recreational activities for minors, or who supervises minors in the course of his or her employment.

The term "abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

Summary of Bill:

The crime of sexual misconduct with a minor is also committed if a school employee has, or knowingly causes another minor to have, sexual intercourse (first degree) or sexual contact (second degree) with a registered student of the school who is at least 16 years old and not married to the school employee. The term school employee— is defined to mean an employee of a public or private school, grades kindergarten through 12.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Original bill) The current statute requires that there be an actual threat or promise to use the person's authority to the detriment or benefit of the student in order for the crime to be prosecuted. The bill will close that loophole, and allow cases to be prosecuted where there isn't an abuse of a supervisory position because there isn't a threat or the employee is not in a supervisory relationship with the student. This occurs, for example, when the employee is not the student's teacher, but a counselor or coach. The bill is narrowly drawn, and would not apply outside the school setting. It addresses concerns that are raised due to the unique and potentially coercive relationships that can occur between students and school employees.

Testimony Against: None.

Testified: (In support) Representative Lambert, co-prime sponsor; Tom McBride, Washington Association of Prosecuting Attorneys; and Suzanne Brown, Washington

Coalition of Sexual Assault Programs.