

SENATE BILL REPORT

SHB 1091

As Reported By Senate Committee On:
Judiciary, March 27, 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 (co-prime sponsor), H. Sommers (co-prime sponsor), Miloscia, Cairnes, Schindler, Talcott and Mielke).

Brief History:

Committee Activity: Judiciary: 3/15/01, 3/27/01 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Costa, Hargrove, Johnson, Kastama, McCaslin, Roach and Zarelli.

Staff: Lilah Amos (786-7421)

Background: Sexual misconduct with a minor is committed when the minor is between 16 and 18 years old and the perpetrator is at least five years older than the victim and not married to the victim. The perpetrator must be in a significant relationship to the victim and must abuse a supervisory position within that relationship in order to engage in, or cause another minor to engage in, sexual intercourse (first degree) or sexual contact (second degree) with the victim.

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

"Significant relationship" means a situation in which the perpetrator has the responsibility to provide education, health, welfare, or organized recreational activities principally for minors, or supervises minors in the course of his or her employment.

"Abuse of a supervisory position" occurs when the perpetrator uses a direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

Summary of Bill: Sexual misconduct also occurs when 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 perpetrator. A school employee is an employee of a public or private school which maintains programs for grades kindergarten through 12.

When a school employee is the perpetrator, proof of a direct or indirect threat or promise to use supervisory authority to the detriment or benefit of a minor is not required. An age differential between the student and the perpetrator is not required.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Sexual activity should be prohibited between all school employees and all students, regardless of whether the employee is a teacher of that particular student or abuses a supervisory position with the student. The current law does not always allow prosecution if the teacher or person having the sexual relationship with the student does not give grades to the student. The law should be clarified to insure that no employee, regardless of supervisory position, can have a sexual relationship with a student.

Testimony Against: None.

Testified: Representative Lambert, prime sponsor; Suzanne Brown, Washington Coalition of Sexual Assault Programs (pro); Tom McBride, Washington Association of Prosecuting Attorneys (pro).