

HOUSE BILL REPORT

HB 2645

As Reported by House Committee On:

Criminal Justice & Corrections

Title: An act relating to municipal indecent exposure and lewd conduct convictions.

Brief Description: Including municipal indecent exposure and lewd conduct convictions in the state indecent exposure felony determination.

Sponsors: Representatives O'Brien, Lovick, Pearson, Delvin and Simpson, D..

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/28/04, 2/6/04 [DPS].

Brief Summary of Substitute Bill

- Expands the circumstances under which indecent exposure is a class C felony to include situations in which the perpetrator has been convicted of a municipal lewd conduct or indecent exposure ordinance.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Pearson and Veloria.

Minority Report: Do not pass. Signed by 1 member: Representative Kagi.

Staff: Jim Morishima (786-7191).

Background:

A person is guilty of indecent exposure if he or she intentionally makes any open and obscene exposure of his or her person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm. The act of breastfeeding or expressing breast milk is not indecent exposure.

Indecent exposure is a misdemeanor unless:

- The person exposes himself or herself to a person under 14 years of age, in which case the crime is a gross misdemeanor; or
- The person has a previous conviction for indecent exposure or a sex offense, in which case the crime is a class C felony with a seriousness level of IV.

Summary of Substitute Bill:

The circumstances under which indecent exposure is a class C felony are expanded. Indecent exposure is a class C felony when the person committing the crime has been previously convicted of any municipal lewd conduct or indecent exposure ordinance for conduct that would also amount to indecent exposure under the state statute.

Substitute Bill Compared to Original Bill:

The substitute bill limits the situations in which a prior conviction under a municipal lewd conduct or indecent exposure ordinance would create felony liability under the state indecent exposure statute. Those situations are limited to circumstances where the conduct that constituted a violation of the municipal ordinance would also have constituted a violation of the state indecent exposure statute. The substitute also changes the effective date of the act to July 1, 2004, and makes technical changes accordingly.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: This bill takes effect July 1, 2004.

Testimony For: Under the current law, offenders who repeatedly expose themselves to children are not subject to felony prosecution if their previous convictions were for municipal offenses. This is because city ordinances do not count as previous convictions under the state indecent exposure statute. This bill will allow a city ordinance to count as such a previous conviction.

Testimony Against: Washington currently has a good existing law with regard to indecent exposure. It differentiates between people engaging in private conduct and people who ought to go to jail. Many municipal ordinances however, are less stringent than state law. The various ways in which municipal indecent exposure ordinances are worded should not govern who is a felon under state law. If this law goes into effect, people may not know that a minor infraction could subject them to felony charges down the road. It could also result in higher court costs for local governments because people will have incentive to fight violations of municipal ordinances to the end.

Persons Testifying: (In support) Det. Jon Jensen and Doug Levy, City of Everett.

(Opposed) Mark Storey, Naturist Action Committee.

Persons Signed In To Testify But Not Testifying: None.