

# HOUSE BILL REPORT

## ESHB 2341

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**As Passed House:**  
February 18, 2014

**Title:** An act relating to indecent liberties by a member of the clergy.

**Brief Description:** Concerning indecent liberties by a clergy member.

**Sponsors:** House Committee on Public Safety (originally sponsored by Representatives DeBolt, Jinkins, Harris, Rodne, Shea and Taylor).

**Brief History:**

**Committee Activity:**

Public Safety: 1/28/14, 2/5/14 [DPS].

**Floor Activity:**

Passed House: 2/18/14, 93-4.

**Brief Summary of Engrossed Substitute Bill**

- Criminalizes sexual contact between a clergy member and someone seeking his or her counsel.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass.  
Signed by 9 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

**Staff:** Jenna Zwang (786-7290) and Sarah Koster (786-7303).

**Background:**

"Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

A person commits Indecent Liberties when he or she knowingly causes another person to have sexual contact with him or her or another:

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- by forcible compulsion;
- when the other person is incapable of consent;
- when the victim is a person with a developmental disability;
- when the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session; or
- when the victim is a frail elder or vulnerable adult.

All Indecent Liberties offenses are class B felonies with a seriousness level of VII, except for Indecent Liberties by Forcible Compulsion, which is a class A felony with a seriousness level of X.

**Summary of Engrossed Substitute Bill:**

A member of the clergy is guilty of Indecent Liberties when they use their position of trust or authority to engage in sexual contact with the victim by exploiting the victim's emotional dependency on the clergy.

Indecent Liberties by a member of a clergy is committed when the perpetrator is:

1. a member of the clergy;
2. in a position of trust or authority over the victim;
3. uses the position of trust or authority to engage in sexual conduct with the victim by exploiting the victim's emotional dependency on the clergy in the clergy's professional position as a religious or spiritual advisor;
4. the victim is an employee, member, guest, visitor, or volunteer of the perpetrator's congregation or organization; and
5. the victim is seeking religious or spiritual advice, counseling, aid, comfort, assistance, or guidance.

Indecent Liberties by a member of the clergy is a class B unranked felony. The defendant bears the burden of showing that a victim consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of spiritual guidance.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill recognizes the abuse and misuse of power. It is clear that in ministerial relationships there is a power differential between the person who is being counseled and the person doing the counseling. This power differential means that a person seeking counseling cannot give meaningful consent in such a relationship. Individuals often seek counseling from clergy leaders at times of stress or crisis. At those times, they are emotionally vulnerable and could be taken advantage of by clergy leaders. Sexual assault victims experience short- and long-term effects including post-traumatic stress disorder, sleep

disorders, and eating disorders. Sexual abuse clearly leaves a deep wound and takes a long time to heal.

(With concerns) This kind of behavior could be controlled without religious overtones. The position of trust with someone providing counseling might be broad enough. Clergy is a broad term, and it is unclear if this bill would apply to every member of the clergy.

(Opposed) This bill paints a very broad brush in terms of what conduct is being criminalized. It amends the Indecent Liberties statute to incorporate clergy members' consensual conduct up to two years after counseling sessions. Because of this inconsistency, clergy will be penalized far more than any other provider. Clergy do not necessarily go through the same education that health care providers do, and clergy members are not monitored by the state. Adults who are capable of consent should be permitted to engage in sexual contact.

**Persons Testifying:** (In support) Rebecca Johnson, Washington Coalition of Sexual Assault Programs.

(With concerns) Arthur West.

(Opposed) Ramona Brandes, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

**Persons Signed In To Testify But Not Testifying:** None.