
Public Safety Committee

HB 2465

Brief Description: Modifying the offense of rape in the third degree.

Sponsors: Representatives Orwall, McCabe, Griffey, Harmsworth and Haler.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Modifies the crime of Rape in the third degree.

Hearing Date: 1/16/18

Staff: Kelly Leonard (786-7147).

Background:

In the context of Rape and other sex offenses, "consent" means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

Rape in the First Degree. A person commits Rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory engages in other specified conduct, including using or threatening to use a deadly weapon, kidnapping the victim, inflicts serious physical injury, or feloniously entering into a building or vehicle. Rape in the first degree is a class A felony and a level XII offense.

Rape in the Second Degree. A person commits Rape in the second degree when, under circumstances not constituting Rape in the first degree, the person engages in sexual intercourse with another person under any of the following circumstances:

- by forcible compulsion;
- when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;
- when the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who has supervisory authority over the

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victim, or was providing the victim transportation within the course of his or her employment;

- when the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination;
- when the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or
- when the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim, or was providing the victim transportation within the course of his or her employment.

Rape in the second degree is a class A felony and a level XI.

Rape in the Third Degree. A person commits Rape in the third degree when, under circumstances not constituting Rape in the first or second degrees, such person engages in sexual intercourse with another person:

- where the victim did not consent to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct; or
- where there is threat of substantial unlawful harm to the property rights of the victim.

Rape in the third degree is a class C felony and a level V offense.

Summary of Bill:

Rape in the third degree is modified by removing the language requiring that lack of consent was clearly expressed by the victim's words or conduct. Instead, a person commits Rape in the third degree when, under circumstances not constituting Rape in the first or second degrees, such person engages in sexual intercourse with another person:

- where the victim did not consent to sexual intercourse with the perpetrator; or
- where there is threat of substantial unlawful harm to the property rights of the victim.

Appropriation: None.

Fiscal Note: Requested on January 11, 2018.

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