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**Public Safety & Emergency  
Preparedness Committee**

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**HB 1097**

**Brief Description:** Protecting frail elders and vulnerable adults and persons with developmental disabilities from perpetrators who commit their crimes while providing transportation, within the course of their employment, to frail elders and vulnerable adults and persons with developmental disabilities.

**Sponsors:** Representatives Miloscia, Priest, Chase, Green, Ormsby, B. Sullivan, O'Brien, Morrell, Kenney, Moeller, Wallace, McCune and Simpson.

**Brief Summary of Bill**

- Expands the crimes of Rape in the second degree and Indecent Liberties to include the situation in which the perpetrator (a) has sexual intercourse with a frail elder, a vulnerable adult, or a person with a developmental disability and (b) was providing transportation, within the course of his or her employment, at the time of the offense.

**Hearing Date:** 1/25/07

**Staff:** Jim Morishima (786-7191).

**Background:**

I. Rape in the second degree

A person commits Rape in the second degree if he or she engages in sexual intercourse with another person:

- By forcible compulsion;
- When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;
- When the victim is developmentally disabled and the perpetrator has supervisory authority over the victim;
- When the perpetrator is a health care provider and the intercourse occurs during a treatment session, consultation, interview, or examination;

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator has supervisory authority over the victim; and
- When the victim is a frail elder or vulnerable adult and the perpetrator has a significant relationship to the victim.

Rape in the second degree is a class A felony with a seriousness level of XI. It is also a "two strikes" offense and a "determinate plus" offense. This means that a first-time offender would generally be sentenced to a minimum term within a standard range of 78-102 months and a maximum term of life. The minimum term would be 25 years if: (a) a special allegation was made and proven that the victim of the crime was under the age of 15 or (b) the crime was committed with forcible compulsion and a special allegation was made and proven that the victim was a frail elder or vulnerable adult.

## II. Indecent Liberties

A person commits Indecent Liberties if he or she engages in sexual contact with another person:

- by forcible compulsion;
- When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;
- When the victim is developmentally disabled and the perpetrator has supervisory authority over the victim;
- When the perpetrator is a health care provider and the intercourse occurs during a treatment session, consultation, interview, or examination;
- When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator has supervisory authority over the victim; or
- When the victim is a frail elder or vulnerable adult and the perpetrator has a significant relationship to the victim.

Indecent Liberties with forcible compulsion is a class A felony with a seriousness level of X. It is also a "two strikes" sex offense and a "determinate plus" offense. This means that a first-time offender would generally be sentenced to a minimum term within a standard range of 51-68 months and a maximum term of life. The minimum term would be 25 years if a special allegation was made and proven that (a) the victim of the crime was under the age of 15 or (b) the victim was a frail elder or vulnerable adult.

Indecent Liberties without forcible compulsion is a class B felony with a seriousness level of VII. It is also a "three strikes" offense. This means that a first-time offender would generally be sentenced within a standard range of 15-20 months.

## **Summary of Bill:**

### I. Rape in the second degree

A person commits Rape in the second degree if he or she (a) has sexual intercourse with a frail elder, a vulnerable adult, or a person with a developmental disability and (b) was providing transportation, within the course of his or her employment, at the time of the offense.

### II. Indecent Liberties

A person commits Indecent Liberties if he or she (a) has sexual contact with a frail elder, a vulnerable adult, or a person with a developmental disability and (b) was providing transportation, within the course of his or her employment, at the time of the offense.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.