

2 **SHB 2573** - S AMD TO LAW COMM AMD (S-5322.1/98) - 915
3 By Senators Kohl, Hargrove, Roach, Long and Fairley

4

5 On page 12, after line 37 of the amendment, insert the following:

6 "NEW SECTION. **Sec. 6.** A new section is added to chapter 13.40 RCW
7 to read as follows:

8 (1) When the secretary has reasonable cause to believe that sexual
9 intercourse or sexual contact between an employee and an offender has
10 occurred, the secretary shall immediately suspend the employee.

11 (2) The secretary shall immediately institute proceedings to
12 terminate the employment of any person:

13 (a) Who is found by the department, based on a preponderance of the
14 evidence, to have had sexual intercourse or sexual contact with the
15 offender; or

16 (b) Upon a guilty plea or conviction for any crime specified in
17 chapter 9A.44 RCW when the victim was an offender.

18 (3) When the secretary has reasonable cause to believe that sexual
19 intercourse or sexual contact between the employee of a contractor and
20 an offender has occurred, the secretary shall require the employee of
21 a contractor to be immediately removed from any employment position
22 which would permit the employee to have any access to any offender.

23 (4) The secretary shall disqualify for employment with a contractor
24 in any position with access to an offender, any person:

25 (a) Who is found by the department, based on a preponderance of the
26 evidence, to have had sexual intercourse or sexual contact with the
27 offender; or

28 (b) Upon a guilty plea or conviction for any crime specified in
29 chapter 9A.44 RCW when the victim was an offender.

30 (5) The secretary, when considering the renewal of a contract with
31 a contractor who has taken action under subsection (3) or (4) of this
32 section, shall require the contractor to demonstrate that there has
33 been significant progress made in reducing the likelihood that any of
34 its employees will have sexual intercourse or sexual contact with an
35 offender. The secretary shall examine whether the contractor has taken

1 steps to improve hiring, training, and monitoring practices and whether
2 the employee remains with the contractor. The secretary shall not
3 renew a contract unless he or she determines that significant progress
4 has been made.

5 (6)(a) For the purposes of RCW 50.20.060, a person terminated under
6 this section shall be considered discharged for misconduct.

7 (b)(i) The department may, within its discretion or upon request of
8 any member of the public, release information to an individual or to
9 the public regarding any person or contract terminated under this
10 section.

11 (ii) An appointed or elected public official, public employee, or
12 public agency as defined in RCW 4.24.470 is immune from civil liability
13 for damages for any discretionary release of relevant and necessary
14 information, unless it is shown that the official, employee, or agency
15 acted with gross negligence or in bad faith. The immunity provided
16 under this section applies to the release of relevant and necessary
17 information to other public officials, public employees, or public
18 agencies, and to the public.

19 (iii) Except as provided in chapter 42.17 RCW, or elsewhere,
20 nothing in this section shall impose any liability upon a public
21 official, public employee, or public agency for failing to release
22 information authorized under this section. Nothing in this section
23 implies that information regarding persons designated in subsection (2)
24 of this section is confidential except as may otherwise be provided by
25 law.

26 (7) The department shall adopt rules to implement this section.
27 The rules shall reflect the legislative intent that this section
28 prevents individuals who are employed by the department or a contractor
29 of the department from having sexual intercourse or sexual contact with
30 offenders. The rules shall also reflect the legislative intent that
31 when a person is employed by the department or a contractor of the
32 department, and has sexual intercourse or sexual contact with an
33 offender against the employed person's will, the termination provisions
34 of this section shall not be invoked.

35 (8) As used in this section:

36 (a) "Offender" means a person under the jurisdiction or supervision
37 of the department; and

38 (b) "Sexual intercourse" and "sexual contact" have the meanings
39 provided in RCW 9A.44.010.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 72.09 RCW
2 to read as follows:

3 (1) When the secretary has reasonable cause to believe that sexual
4 intercourse or sexual contact between an employee and an inmate has
5 occurred, the secretary shall immediately suspend the employee.

6 (2) The secretary shall immediately institute proceedings to
7 terminate the employment of any person:

8 (a) Who is found by the department, based on a preponderance of the
9 evidence, to have had sexual intercourse or sexual contact with the
10 inmate; or

11 (b) Upon a guilty plea or conviction for any crime specified in
12 chapter 9A.44 RCW when the victim was an inmate.

13 (3) When the secretary has reasonable cause to believe that sexual
14 intercourse or sexual contact between the employee of a contractor and
15 an inmate has occurred, the secretary shall require the employee of a
16 contractor to be immediately removed from any employment position which
17 would permit the employee to have any access to any inmate.

18 (4) The secretary shall disqualify for employment with a contractor
19 in any position with access to an inmate, any person:

20 (a) Who is found by the department, based on a preponderance of the
21 evidence, to have had sexual intercourse or sexual contact with the
22 inmate; or

23 (b) Upon a guilty plea or conviction for any crime specified in
24 chapter 9A.44 RCW when the victim was an inmate.

25 (5) The secretary, when considering the renewal of a contract with
26 a contractor who has taken action under subsection (3) or (4) of this
27 section, shall require the contractor to demonstrate that there has
28 been significant progress made in reducing the likelihood that any of
29 its employees will have sexual intercourse or sexual contact with an
30 inmate. The secretary shall examine whether the contractor has taken
31 steps to improve hiring, training, and monitoring practices and whether
32 the employee remains with the contractor. The secretary shall not
33 renew a contract unless he or she determines that significant progress
34 has been made.

35 (6)(a) For the purposes of RCW 50.20.060, a person terminated under
36 this section shall be considered discharged for misconduct.

37 (b)(i) The department may, within its discretion or upon request of
38 any member of the public, release information to an individual or to

1 the public regarding any person or contract terminated under this
2 section.

3 (ii) An appointed or elected public official, public employee, or
4 public agency as defined in RCW 4.24.470 is immune from civil liability
5 for damages for any discretionary release of relevant and necessary
6 information, unless it is shown that the official, employee, or agency
7 acted with gross negligence or in bad faith. The immunity provided
8 under this section applies to the release of relevant and necessary
9 information to other public officials, public employees, or public
10 agencies, and to the public.

11 (iii) Except as provided in chapter 42.17 RCW, or elsewhere,
12 nothing in this section shall impose any liability upon a public
13 official, public employee, or public agency for failing to release
14 information authorized under this section. Nothing in this section
15 implies that information regarding persons designated in subsection (2)
16 of this section is confidential except as may otherwise be provided by
17 law.

18 (7) The department shall adopt rules to implement this section.
19 The rules shall reflect the legislative intent that this section
20 prevents individuals who are employed by the department or a contractor
21 of the department from having sexual intercourse or sexual contact with
22 inmates. The rules shall also reflect the legislative intent that when
23 a person is employed by the department or a contractor of the
24 department, and has sexual intercourse or sexual contact with an inmate
25 against the employed person's will, the termination provisions of this
26 section shall not be invoked.

27 (8) As used in this section:

28 (a) "Inmate" means an inmate as defined in RCW 72.09.015 or a
29 person under the supervision of the department; and

30 (b) "Sexual intercourse" and "sexual contact" have the meanings
31 provided in RCW 9A.44.010.

32 NEW SECTION. **Sec. 8.** Nothing in section 6 or 7 of this act
33 affects any collective bargaining agreement in place on the effective
34 date of this act."

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3

4 On page 13, line 7 of the title amendment, after "RCW;" insert
5 "adding a new section to chapter 13.40 RCW; adding a new section to
6 chapter 72.09 RCW; creating a new section;"

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