

# HOUSE BILL REPORT

## ESHB 2712

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**As Passed House:**

February 9, 2000

**Title:** An act relating to sexual misconduct with a minor.

**Brief Description:** Changing sexual misconduct laws with regard to school employees.

**Sponsors:** By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lambert, Lovick, Rockefeller, Woods, Haigh, Cox, Ruderman and Fortunato).

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 2/1/00, 2/4/00 [DPS].

**Floor Activity:**

Passed House: 2/9/00, 97-0.

**Brief Summary of Engrossed Substitute Bill**

- Changes the elements of first and second degree sexual misconduct with a minor as it applies in the case of school employees and students.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

**Staff:** Jean Ann Quinn (786-7310).

**Background:**

Sexual misconduct with a minor is committed if the victim is 16 or 17 years old and the perpetrator is at least five years older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship to engage in sexual intercourse (first degree) or sexual contact (second degree) with the

victim. The crime is also committed if the perpetrator causes the minor to have sexual intercourse or sexual contact with another minor. The crimes do not apply if the child and the perpetrator are married.

Sexual misconduct with a minor in the first degree is a class C felony, ranked at seriousness level V, and in the second degree is a gross misdemeanor.

The term "significant relationship" as it applies in this context means a situation in which the perpetrator is a person who is responsible for providing education, health, welfare, or organized recreational activities for minors, or who supervises minors in the course of his or her employment.

The term "abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

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**Summary of Engrossed Substitute Bill:**

With respect to a significant relationship involving a school employee and a student, the crime of sexual misconduct with a minor is committed if the student is 16 or 17 years old and the school employee has, or knowingly causes another minor to have, sexual intercourse (first degree) or sexual contact (second degree) with the student. The term "school employee" is defined to mean an employee of a public or private school, grades kindergarten through twelve.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill is about protecting our 16 and 17 year old children. Last year the Legislature enacted legislation making custodial sexual misconduct a crime. The same type of protection should be given to children. There are several cases pending around the state where the prosecutors are concerned that they will not be able to prosecute because of a strict interpretation of what it means to abuse a supervisory position. In many cases, the perpetrator doesn't need to use the threat of benefit or detriment to the child to coerce the child into a sexual relationship, but instead operates by slowly gaining the child's trust and then manipulating that trust. There are such differences in power in these relationships that they can never be equal. The language of the bill is consistent with the teacher's code of conduct.

**Testimony Against:** None.

**Testified:** Representative Kathy Lambert, prime sponsor; Dan Satterberg, King County Prosecuting Attorney's Office; and Suzanne Brown, Washington Coalition of Sexual Assault Projects.