

HOUSE BILL REPORT

SSB 5010

As Passed House:

April 9, 1999

Title: An act relating to sexual misconduct by employees of custodial agencies.

Brief Description: Providing disciplinary sanctions for sexual misconduct by employees of custodial agencies.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove, Long, Goings, Swecker, Winsley, Oke, Benton and Costa).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 3/31/99, 4/2/99 [DP].

Floor Activity:

Passed House: 4/9/99, 93-0.

Brief Summary of Substitute Bill

- Defines sexual contact between an employee or a departmental contractor and an inmate as employee misconduct.
- Authorizes the suspension and termination of an employee when the employee has engaged in sexual misconduct with an inmate.
- Authorizes the release of information to the public regarding any person or contract terminated due to sexual misconduct.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: 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: Yvonne Walker (786-7841).

Background:

The Department of Corrections and the Department of Social and Health Services routinely hire employees and contractors for positions where the employee has contact with inmates or offenders. There is no specific law preventing an employee or a contractor from having sexual intercourse or sexual contact with a person over whom he or she has supervisory authority.

Summary of Bill:

Sexual intercourse or sexual contact between an employee of the Department of Corrections or the Department of Social and Health Services or a departmental contractor and an adult or juvenile inmate is defined as employee misconduct.

The secretaries of the departments must suspend the employment of an employee, or require the employee of a contractor to be immediately removed from any employment position which would permit the employee to have any access to any offender or inmate, when there is reasonable cause to believe the employee has engaged in sexual misconduct with an offender or inmate.

If the misconduct is proved by a preponderance of the evidence, the secretaries must institute termination proceedings against an employee or require the contractor to permanently remove the employee from any position with any access to a juvenile offender or adult inmate.

Before the secretaries renew a contract with a contractor whose employee was subject to removal for sexual misconduct, the secretaries must determine whether the contractor has made significant progress in reducing the likelihood of sexual misconduct by its employees. This determination must consider the steps the contractor has taken to improve hiring, training, and monitoring practices, and whether the employee whose misconduct caused his or her removal is still employed by the contractor.

The departments may, within its discretion or upon request of any member of the public, release relevant and necessary information to an individual or to the public regarding any person or contract terminated due to sexual misconduct or sexual intercourse with an inmate or offender. Public officials, public employees, and public agencies are immune from civil liability for damages for any discretionary release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith.

Appropriation: None.

Fiscal Note: Requested on March 25, 1999.

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

Testimony For: Over the years, the Legislature has strengthened the laws and agency policies to prohibit sexual misconduct between employees and inmates. This bill is a complementary bill to another Senate bill which creates the crime of custodial sexual misconduct between employees and adult and juvenile offenders. This bill provides another tool for agencies such as the Department of Corrections and the Department of Social and Health Services to use and it also sets into statute the misconduct policies that these agencies have already instituted in the past.

Testimony Against: None.

Testified: Senator Kohl-Welles, prime sponsor.