

# SENATE BILL REPORT

## SSB 5309

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As Passed Senate, March 9, 2005

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

**Brief Description:** Defining sexual misconduct with a minor.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Benton and Kline).

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/1/05, 2/14/05 [DPS].

Passed Senate: 3/9/05, 44-0.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 5309 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell and McAuliffe.

**Staff:** Kiki Keizer (786-7430)

**Background:** Sexual intercourse or sexual contact with a minor who is 16 or 17 is not a crime, except for two situations. Sexual misconduct with a minor is a crime if the perpetrator is a school employee and the minor is a registered student of the school. Sexual misconduct with a 16- or 17-year-old is also a crime if the perpetrator is at least five years older, is not married to but is in a significant relationship to the minor, and abuses a supervisory position within that relationship to engage in or cause the minor to have sexual intercourse (first degree) or sexual contact (second degree). Sexual misconduct with a minor in the first degree is a class C felony and sexual misconduct in the second degree is a gross misdemeanor.

In the context of the crime of sexual misconduct with a minor, "abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor. "Significant relationship" means a situation in which the perpetrator voluntarily or professionally provides education, health, welfare, or organized recreation, principally for minors. It also means a situation in which a person supervises minors in the course of his or her work. It also means a situation in which a person provides welfare, health, or residential assistance, personal care, or organized recreational activities to frail elders or vulnerable adults.

**Summary of Bill:** The definition of "abuse of a supervisory position," an element of the crime of sexual misconduct with a minor, is amended to include exploiting a significant relationship to obtain the consent of a minor. The section of the criminal law establishing the elements of the crime of sexual misconduct with a minor is also amended to include a situation in which a foster parent has sexual contact or sexual intercourse, or causes another person

under the age of eighteen to have sexual contact or sexual intercourse, with his or her foster child who is at least 16 years old.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For The Original Bill:** The way that the crime of sexual misconduct with a minor is currently defined does not pick up on situations in which adults prey upon teenagers who are physically mature but who are not developmentally prepared to make sound judgments in adult situations. Unless the perpetrator is a school employee and the victim is a student, the law currently requires the victim to show that his or her compliance with the perpetrator's demand for sex was based on a threat or promise of a special benefit. It is hard to prove that compliance was predicated on a threat or a promise. It is also more likely that a perpetrator will gradually gain the trust of a vulnerable youth and then take advantage of that trusting relationship by seducing the youth. The law should protect children under 18 from coaches, mentors, foster parents, and others who manipulate them into consenting to sexual contact or intercourse.

**Testimony Against The Original Bill:** None.

**Who Testified:** PRO: Sen. Jeanne Kohl-Welles, prime sponsor; Jack Rice, citizen; Donna Rice, citizen; Toby Cremer, Washington Coalition of Sexual Assault Programs; Tom McBride, Washington Association of Prosecuting Attorneys.