

HOUSE BILL REPORT

HB 1284

As Reported by House Committee On: Education

Title: An act relating to adding a requirement to sexual health education to include legal elements of and consequences of conviction for sexual offenses where a minor is the victim.

Brief Description: Adding a requirement to sexual health education to include elements of and consequences for conviction of sexual offenses where the victim is a minor.

Sponsors: Representatives Orcutt, Cody, Rivers, Angel, Klippert, McCune, Johnson, Haler, Kelley, Pearson and Harris.

Brief History:

Committee Activity:

Education: 2/3/11, 2/17/11 [DPS].

Brief Summary of Substitute Bill

- Requires public schools that offer sexual health education to include information about the legal elements of sexual offenses against minors, the consequences upon conviction for such crimes, and other information regarding sex offenses and sex offenders.
- Tasks the Washington Coalition of Sexual Assault Programs (Coalition), in consultation with others, to include information about the legal elements of sexual offenses where a minor is a victim, and the consequences upon conviction in the educational material they prepare relative to sex offenses and sex offenders.
- Directs that these educational materials be provided to school districts and students as well as parents and community members.
- Encourages schools that offer sexual health education to incorporate the educational materials prepared by the Coalition into the curriculum.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 16 members: Representatives Santos, Chair; Dammeier, Ranking Minority

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.

Member; Anderson, Assistant Ranking Minority Member; Ahern, Angel, Billig, Dahlquist, Fagan, Finn, Haigh, Hargrove, Hunt, Klippert, Kretz, Probst and Wilcox.

Minority Report: Do not pass. Signed by 5 members: Representatives Lytton, Vice Chair; Ladenburg, Lias, Maxwell and McCoy.

Staff: Cece Clynch (786-7195).

Background:

Sexual Health Education.

Public schools are not required to offer sexual health education but those that do must assure that it is:

- medically and scientifically accurate;
- age-appropriate;
- appropriate for students regardless of gender, race, disability status, or sexual orientation; and
- inclusive of information about abstinence, however, abstinence may not be taught to the exclusion of instruction on other methods of preventing unintended pregnancy and sexually transmitted disease prevention.

The Superintendent of Public Instruction (SPI), in consultation with the Department of Health (DOH), is required to and has developed a list of sexual health education curricula to serve as resources for schools, teachers, or other organizations. The list must be updated annually and posted on the agencies' websites. Public schools are encouraged to review their sexual health curricula and choose from the list, or they may choose or develop other curriculum if it complies with the requirements.

Any parent or guardian may have his or her child excused from planned instruction in sexual health education by filing a written request with the school board or principal. In addition, any parent may review the sexual health curriculum offered by filing a written request with the school board or the principal.

Public schools must identify any curricula used to the Office of the Superintendent of Public Instruction (OSPI) and the OSPI, in turn, reports the results to the Legislature biennially.

Sex Offenses in the Criminal Code (chapter 9A.44 RCW).

The criminal code's chapter on sex offenses includes some offenses which are crimes whether or not the victim is a minor and some which are crimes because the victim is a minor.

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| Rape 1 | Sexual intercourse by forcible compulsion plus deadly weapon, or kidnapping, or serious physical injury, or felony entry into a building or vehicle. |
| Rape 2 | Sexual intercourse by forcible compulsion, under circumstances not constituting Rape 1, where the victim is incapable of consent, or the victim is a person with a developmental disability and the perpetrator has supervisory authority over the victim, etc. |

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| Rape 3 | Sexual intercourse with clear lack of consent. |
| Rape of a Child 1 | Sexual intercourse with a child less than 12 years old, and the perpetrator is at least 24 months older than the victim. |
| Rape of a Child 2 | Sexual intercourse with a child between 12 and 14 years old, and the perpetrator is at least 36 months older than the victim. |
| Rape of a Child 3 | Sexual intercourse with a child between 14 and 16 years old, and the perpetrator is at least 48 months older than the victim. |
| Child Molestation 1 | Sexual contact with a child less than 12 years old, and the perpetrator is at least 36 months older than the victim. |
| Child Molestation 2 | Sexual contact with a child between 12 and 14 years old, and the perpetrator is at least 36 months older than the victim. |
| Child Molestation 3 | Sexual contact with a child between 14 and 16 years old, and the perpetrator is at least 48 months older than the victim. |
| Sexual Misconduct With a Minor 1 | Sexual intercourse with a child between 16 and 18 years old, and the perpetrator is at least 60 months older and abuses a supervisory position over the victim. |
| Indecent Liberties | Sexual contact by forcible compulsion or when the victim is incapable of consent. |

In addition to any sentence which attends conviction or a plea of guilty to these crimes, any adult or juvenile who has been found to have committed or has been convicted of any sex offense must register with the county sheriff for the county of the person's residence. There are also various other reporting requirements as well as possibly severe career consequences.

Educational Materials Regarding Sex Offenses, Sex Offenders, and Victims of Sexual Assault.

In 2006 the Legislature tasked the Coalition, in consultation with the Washington Association of Sheriffs and Police Chiefs (WASPC), the Washington Association of Prosecuting Attorneys (WAPA), and the OSPI, with developing educational materials to be made available to inform parents and other interested community members about:

- the laws related to sex offenses;
- how to recognize behaviors characteristic of sex offenses and sex offenders;
- how to prevent victimization, particularly that of young children;
- how to take advantage of community resources for victims of sexual assault; and
- other information as deemed appropriate.

Summary of Substitute Bill:

Information regarding the legal elements of sexual offenses under chapter 9A.44 RCW where a minor is a victim, and the consequences upon conviction, must be added to the educational materials prepared by the Coalition, in consultation with the WASPC, the WAPA, and the OSPI. By September 1, 2012, and biennially thereafter, the Coalition and the others so tasked must review and update the educational materials to assure that they remain current, accurate, and are age-appropriate for a variety of ages.

Any public school that offers sexual health education must assure that information is included about the legal elements of sexual offenses under chapter 9A.44 RCW where a minor is a victim, as well as the consequences of conviction for such offenses, and other information relative to sex offenses and sex offenders. Schools are encouraged to incorporate the educational materials prepared by the Coalition into the curriculum.

Substitute Bill Compared to Original Bill:

Rather than amending the statute regarding sexual health education, amendments are made to another statute that requires the Coalition and others to prepare educational materials about sexual offenses and sex offenders. While the OSPI is still involved in preparing the educational materials, neither the OSPI nor the Washington State Patrol are tasked with preparing a curriculum.

By September 1, 2012, and biennially thereafter, the Coalition and the others so tasked must review and update the educational materials to assure that they remain current and accurate, and are age-appropriate for a variety of ages. The materials must be made available to students, parents, school districts, and community members. Schools that offer sexual health education are encouraged to incorporate the prepared educational materials into the curriculum.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 17, 2011.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) A 19-year-old man was convicted and labeled a sex offender after having sex with his 15-year-old girlfriend. This label will be with him for the rest of his life. According to him, if he had known that, given his age, having sex with his girlfriend constituted a sex offense, he would not have had sex with her. Knowledge about these sex offenses and their consequences needs to be disseminated. While some may not heed such a warning, others will. This is not an effort to turn teachers into lawyers. This will fit well within the sex education class, if one is offered. It should not be a mandate, but only required if the school already offers sex education.

(With concerns) While appreciating that there may be a problem for those who are ignorant of the elements and consequences, it must be recognized that these sex offense laws are very complicated, and it will be difficult for teachers to add this component to the sex education classes.

(Opposed) None.

Persons Testifying: (In support) Representative Orcutt, prime sponsor.

(With concerns) Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs.

Persons Signed In To Testify But Not Testifying: None.