

# SENATE BILL REPORT

## SSB 6518

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As Passed Senate, February 13, 1998

**Title:** An act relating to rape in the first degree.

**Brief Description:** Increasing the degree of rape when the perpetrator incapacitates the victim.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Roach, Benton, Long, Oke, Zarelli, Rossi, Sellar, Snyder, Johnson, Horn, McDonald, Hale, Strannigan, McCaslin, Prentice, Schow, Fraser, Deccio, Swecker, Morton, Goings, Bauer, Rasmussen and Haugen).

**Brief History:**

**Committee Activity:** Law & Justice: 1/22/98, 2/5/98 [DPS].  
Passed Senate, 2/13/98, 48-0.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 6518 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Stevens, Thibaudeau and Zarelli.

**Staff:** Aldo Melchiori (786-7439)

**Background:** Rape in the first degree is committed by a person who engages in sexual intercourse by forcible compulsion where the rapist or an accessory uses a deadly weapon or what appears to be a deadly weapon, kidnaps the victim, inflicts serious physical injury, or feloniously enters a building or vehicle where the victim is located.

Rape in the second degree is committed by a person who engages in sexual intercourse by forcible compulsion, when the victim is incapable of consent by reason of physical helplessness or mental incapacity, when the victim is developmentally disabled by a person with supervisory authority, when the perpetrator is a health care provider and the victim is a patient or client and the rape occurs during treatment, or when the victim is a resident of a facility for mentally disordered or chemically dependant persons and the rapist has supervisory authority.

Both degrees of rape are class A felonies and "strikes" under the persistent offender provisions. Rape in the first degree is sentenced at level XII (93 to 123 months for a first offense). Rape in the second degree is sentenced at level XI (78 to 102 months for a first offense). Offenders convicted for either degree of rape are not eligible for the Special Sex Offender Sentencing Alternative.

It has been proposed that when a perpetrator renders the victim incapable of consent through some action, it would be more appropriate to consider the offense rape in the first degree.

**Summary of Bill:** When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated because of the actions of the perpetrator, it is rape in the first degree.

**Appropriation:** None.

**Fiscal Note:** Requested on January 14, 1998.

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

**Testimony For:** The language gives guidance to prosecutors making charging decisions. Violent criminals need to be kept off the street. Proportionality is provided for crimes during which the offender affirmatively acts to disable a victim versus when the offender happens upon a hapless victim.

**Testimony Against:** None.

**Testified:** PRO: Steve Jones; Cris Owsley; Barbara Eacret; Maggie Warren, SAFER.

**House Amendment(s):** Rendering a person unconscious through physical injury is included as a serious physical injury. Rendering a victim incapable of consent because of physical helplessness or mental incapacity is eliminated.