

# HOUSE BILL REPORT

## SSB 5309

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**As Reported by House Committee On:**  
Criminal Justice & Corrections

**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:**

Criminal Justice & Corrections: 3/25/05, 3/31/05 [DP].

**Brief Summary of Substitute Bill**

- Extends the definition of "abuse of a supervisory position," as it relates to sexual misconduct with a minor in the first and second degrees, to include exploitation of a significant relationship in order to obtain the consent of a minor.
- Adds an alternate means of committing sexual misconduct with a minor in the first and second degrees.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Kirby and Strow.

**Staff:** Kathryn Leathers (786-7114).

**Background:**

The age of consent in Washington is 16. As a result, absent forcible compulsion, a clear lack of consent, or in cases of incest, having sexual intercourse or sexual contact with a minor who is 16 or 17 is not a crime, except in very limited situations. Two such situations include the crimes of sexual misconduct in the first and second degree. Sexual misconduct with a minor in the first degree is committed when the victim/minor is 16 or 17 years old and:

(1) the offender: (a) is at least five years older than the victim; (b) is not married to the victim; (c) has, or knowingly causes another person under 18 years old to have, sexual intercourse with the victim; (d) is in a significant relationship with the victim; and (e) abuses a

supervisory position within that significant relationship in order to engage in (or knowingly cause another person under the age of 18 to have) sexual intercourse with the victim; or (2) the offender: (a) is at least five years older than the victim; (b) is a school employee who has, or knowingly causes another person under 18 years old to have, sexual intercourse with a registered student of the school who is aged 16 or 17; and (c) is not married to the victim/student.

Sexual misconduct with a minor in the second degree is committed under the same circumstances as first degree but involves sexual contact rather than sexual intercourse.

"Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party. "Sexual intercourse" has its ordinary meaning as well as (a) any penetration of the vagina or anus by an object when committed on one person by another, except when such penetration is for medically recognized treatment or diagnostic purposes; and (b) any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another.

"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 offender, whether voluntarily or professionally, provides education, health, welfare, or organized recreation, principally for minors. It also means situations in which a person supervises minors in the course of his or her work, as well as situations in which a person provides welfare, health, or residential assistance, personal care, or organized recreational activities to frail elders or vulnerable adults.

Sexual misconduct with a minor in the first degree is a class C felony. Sexual misconduct with a minor in the second degree is a gross misdemeanor.

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### **Summary of Bill:**

This bill expands the definition of "abuse of a supervisory position," an element of the crimes of sexual misconduct with a minor in the first and second degree, to include exploitation of a significant relationship for the purpose of obtaining the consent of a minor.

The bill also creates a third method of committing the crimes of sexual misconduct with a minor in the first and second degree. Under this new alternative, a person is guilty of sexual misconduct with a minor in the first degree if the offender is a foster parent who has, or knowingly causes another person under the age of 18 to have, sexual intercourse with the offender's foster child and the foster child is at least 16 years old. And, a person is guilty of sexual misconduct with a minor in the second degree if the offender has or causes another person under the age of 18 to have, sexual contact with the offender's foster child and the foster child is at least 16 years old.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** This bill helps protect children ages 16 and 17 who are victimized by sexual misconduct, particularly as it relates to athletes and their private coaches. Close relationships often develop in these coach-athlete relationships. Sometimes this can lead to abuse. The effect of these relationships can be traumatic and devastating for both the children and their families.

**Testimony Against:** None.

**Persons Testifying:** Senator Kohl-Wells, prime sponsor; and Jack Price.

**Persons Signed In To Testify But Not Testifying:** None.