

SSB 6155 - H COMM AMD

By Committee on Public Safety

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9A.44.050 and 2007 c 20 s 1 are each amended to
4 read as follows:

5 (1) A person is guilty of rape in the second degree when, under
6 circumstances not constituting rape in the first degree, the person
7 engages in sexual intercourse with another person:

8 (a) By forcible compulsion;

9 (b) When the victim is incapable of consent by reason of being
10 physically helpless or mentally incapacitated;

11 (c) When the victim is a person with a developmental disability
12 and the perpetrator is a person who (~~is not married to the victim~~
13 ~~and who~~):

14 (i) Has supervisory authority over the victim; or

15 (ii) Was providing transportation, within the course of his or
16 her employment, to the victim at the time of the offense;

17 (d) When the perpetrator is a health care provider, the victim is
18 a client or patient, and the sexual intercourse occurs during a
19 treatment session, consultation, interview, or examination. It is an
20 affirmative defense that the defendant must prove by a preponderance
21 of the evidence that the client or patient consented to the sexual
22 intercourse with the knowledge that the sexual intercourse was not
23 for the purpose of treatment;

24 (e) When the victim is a resident of a facility for persons with
25 a mental disorder or chemical dependency and the perpetrator is a
26 person who (~~is not married to the victim and~~) has supervisory
27 authority over the victim; or

28 (f) When the victim is a frail elder or vulnerable adult and the
29 perpetrator is a person who (~~is not married to the victim and who~~):

30 (i) Has a significant relationship with the victim; or

31 (ii) Was providing transportation, within the course of his or
32 her employment, to the victim at the time of the offense.

1 (2) Rape in the second degree is a class A felony.

2 **Sec. 2.** RCW 9A.44.073 and 1988 c 145 s 2 are each amended to
3 read as follows:

4 (1) A person is guilty of rape of a child in the first degree
5 when the person has sexual intercourse with another who is less than
6 twelve years old (~~(and not married to the perpetrator)~~) and the
7 perpetrator is at least twenty-four months older than the victim.

8 (2) Rape of a child in the first degree is a class A felony.

9 **Sec. 3.** RCW 9A.44.076 and 1990 c 3 s 903 are each amended to
10 read as follows:

11 (1) A person is guilty of rape of a child in the second degree
12 when the person has sexual intercourse with another who is at least
13 twelve years old but less than fourteen years old (~~(and not married~~
14 ~~to the perpetrator)~~) and the perpetrator is at least thirty-six
15 months older than the victim.

16 (2) Rape of a child in the second degree is a class A felony.

17 **Sec. 4.** RCW 9A.44.079 and 1988 c 145 s 4 are each amended to
18 read as follows:

19 (1) A person is guilty of rape of a child in the third degree
20 when the person has sexual intercourse with another who is at least
21 fourteen years old but less than sixteen years old (~~(and not married~~
22 ~~to the perpetrator)~~) and the perpetrator is at least forty-eight
23 months older than the victim.

24 (2) Rape of a child in the third degree is a class C felony.

25 **Sec. 5.** RCW 9A.44.083 and 1994 c 271 s 303 are each amended to
26 read as follows:

27 (1) A person is guilty of child molestation in the first degree
28 when the person has, or knowingly causes another person under the age
29 of eighteen to have, sexual contact with another who is less than
30 twelve years old (~~(and not married to the perpetrator)~~) and the
31 perpetrator is at least thirty-six months older than the victim.

32 (2) Child molestation in the first degree is a class A felony.

33 **Sec. 6.** RCW 9A.44.086 and 1994 c 271 s 304 are each amended to
34 read as follows:

1 (1) A person is guilty of child molestation in the second degree
2 when the person has, or knowingly causes another person under the age
3 of eighteen to have, sexual contact with another who is at least
4 twelve years old but less than fourteen years old (~~(and not married~~
5 ~~to the perpetrator)~~) and the perpetrator is at least thirty-six
6 months older than the victim.

7 (2) Child molestation in the second degree is a class B felony.

8 **Sec. 7.** RCW 9A.44.089 and 1994 c 271 s 305 are each amended to
9 read as follows:

10 (1) A person is guilty of child molestation in the third degree
11 when the person has, or knowingly causes another person under the age
12 of eighteen to have, sexual contact with another who is at least
13 fourteen years old but less than sixteen years old (~~(and not married~~
14 ~~to the perpetrator)~~) and the perpetrator is at least forty-eight
15 months older than the victim.

16 (2) Child molestation in the third degree is a class C felony.

17 **Sec. 8.** RCW 9A.44.093 and 2009 c 324 s 1 are each amended to
18 read as follows:

19 (1) A person is guilty of sexual misconduct with a minor in the
20 first degree when: (a) The person has, or knowingly causes another
21 person under the age of eighteen to have, sexual intercourse with
22 another person who is at least sixteen years old but less than
23 eighteen years old (~~(and not married to the perpetrator)~~), if the
24 perpetrator is at least sixty months older than the victim, is in a
25 significant relationship to the victim, and abuses a supervisory
26 position within that relationship in order to engage in or cause
27 another person under the age of eighteen to engage in sexual
28 intercourse with the victim; (b) the person is a school employee who
29 has, or knowingly causes another person under the age of eighteen to
30 have, sexual intercourse with an enrolled student of the school who
31 is at least sixteen years old and not more than twenty-one years old
32 (~~(and not married to the employee)~~), if the employee is at least
33 sixty months older than the student; or (c) the person is a foster
34 parent who has, or knowingly causes another person under the age of
35 eighteen to have, sexual intercourse with his or her foster child who
36 is at least sixteen.

37 (2) Sexual misconduct with a minor in the first degree is a class
38 C felony.

1 (3) For the purposes of this section:

2 (a) "Enrolled student" means any student enrolled at or attending
3 a program hosted or sponsored by a common school as defined in RCW
4 28A.150.020, or a student enrolled at or attending a program hosted
5 or sponsored by a private school under chapter 28A.195 RCW, or any
6 person who receives home-based instruction under chapter 28A.200 RCW.

7 (b) "School employee" means an employee of a common school
8 defined in RCW 28A.150.020, or a grade kindergarten through twelve
9 employee of a private school under chapter 28A.195 RCW, who is not
10 enrolled as a student of the common school or private school.

11 **Sec. 9.** RCW 9A.44.096 and 2009 c 324 s 2 are each amended to
12 read as follows:

13 (1) A person is guilty of sexual misconduct with a minor in the
14 second degree when: (a) The person has, or knowingly causes another
15 person under the age of eighteen to have, sexual contact with another
16 person who is at least sixteen years old but less than eighteen years
17 old (~~((and not married to the perpetrator))~~), if the perpetrator is at
18 least sixty months older than the victim, is in a significant
19 relationship to the victim, and abuses a supervisory position within
20 that relationship in order to engage in or cause another person under
21 the age of eighteen to engage in sexual contact with the victim; (b)
22 the person is a school employee who has, or knowingly causes another
23 person under the age of eighteen to have, sexual contact with an
24 enrolled student of the school who is at least sixteen years old and
25 not more than twenty-one years old (~~((and not married to the
26 employee))~~), if the employee is at least sixty months older than the
27 student; or (c) the person is a foster parent who has, or knowingly
28 causes another person under the age of eighteen to have, sexual
29 contact with his or her foster child who is at least sixteen.

30 (2) Sexual misconduct with a minor in the second degree is a
31 gross misdemeanor.

32 (3) For the purposes of this section:

33 (a) "Enrolled student" means any student enrolled at or attending
34 a program hosted or sponsored by a common school as defined in RCW
35 28A.150.020, or a student enrolled at or attending a program hosted
36 or sponsored by a private school under chapter 28A.195 RCW, or any
37 person who receives home-based instruction under chapter 28A.200 RCW.

38 (b) "School employee" means an employee of a common school
39 defined in RCW 28A.150.020, or a grade kindergarten through twelve

1 employee of a private school under chapter 28A.195 RCW, who is not
2 enrolled as a student of the common school or private school.

3 **Sec. 10.** RCW 9A.44.100 and 2013 c 94 s 2 are each amended to
4 read as follows:

5 (1) A person is guilty of indecent liberties when he or she
6 knowingly causes another person to have sexual contact with him or
7 her or another:

8 (a) By forcible compulsion;

9 (b) When the other person is incapable of consent by reason of
10 being mentally defective, mentally incapacitated, or physically
11 helpless;

12 (c) When the victim is a person with a developmental disability
13 and the perpetrator is a person who (~~is not married to the victim~~
14 ~~and who~~):

15 (i) Has supervisory authority over the victim; or

16 (ii) Was providing transportation, within the course of his or
17 her employment, to the victim at the time of the offense;

18 (d) When the perpetrator is a health care provider, the victim is
19 a client or patient, and the sexual contact occurs during a treatment
20 session, consultation, interview, or examination. It is an
21 affirmative defense that the defendant must prove by a preponderance
22 of the evidence that the client or patient consented to the sexual
23 contact with the knowledge that the sexual contact was not for the
24 purpose of treatment;

25 (e) When the victim is a resident of a facility for persons with
26 a mental disorder or chemical dependency and the perpetrator is a
27 person who (~~is not married to the victim and~~) has supervisory
28 authority over the victim; or

29 (f) When the victim is a frail elder or vulnerable adult and the
30 perpetrator is a person who (~~is not married to the victim and who~~):

31 (i) Has a significant relationship with the victim; or

32 (ii) Was providing transportation, within the course of his or
33 her employment, to the victim at the time of the offense.

34 (2)(a) Except as provided in (b) of this subsection, indecent
35 liberties is a class B felony.

36 (b) Indecent liberties by forcible compulsion is a class A
37 felony.

1 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and takes
4 effect immediately."

5 Correct the title.

EFFECT: Retains all provisions of the underlying bill and adds an
emergency clause.

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