

SENATE BILL REPORT

SB 5275

AS PASSED SENATE, MARCH 4, 1991

Brief Description: Lowering necessary age difference for child molestation in first degree.

SPONSORS: Senator Nelson.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, L. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

Staff: Susan Carlson (786-7418)

Hearing Dates: February 4, 1991; February 8, 1991

BACKGROUND:

The crime of child molestation in the first degree is committed if a person has sexual contact with a child less than 12 years old and the person is at least 36 months older than the victim. The crime of rape of a child in the first degree is committed if a person has sexual intercourse with a child who is less than 12 years old and the person is at least 24 months older than the victim.

There is concern that child molestation in the first degree is not available as a lesser included offense of rape of a child in the first degree because the two crimes do not contain the same age differentials between victims and perpetrators. In order for a jury to consider a lesser included offense, each element of the lesser offense must be a necessary element of the offense charged.

SUMMARY:

Child molestation in the first degree is committed if a person has sexual contact with a child less than 12 years old and the perpetrator is at least 24 months older than the victim.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

The bill assists successful prosecution of these types of sexual offenders by allowing child molestation in the first degree to be a lesser included offense of rape of a child in the first degree.

TESTIMONY AGAINST: None

TESTIFIED: John S. Bumford, Thurston County Prosecuting Attorney's office (pro); Dawn Larsen, Washington Coalition of Sexual Assault Programs (pro); Rod Moody, Pierce County Prosecuting Attorney's office (pro)