

1 **SHB 2644 - H AMD 159 ADOPTED 2-12-96**

2 By Representatives Lambert and Mastin

3 Strike everything after the enacting clause and insert the
4 following:

5
6 NEW SECTION. **Sec. 1.** A new section is added to chapter
7 9A.44 RCW to read as follows:

8 (1) A person is guilty of rape of a child in the fourth degree
9 when the person has sexual intercourse with another who is at least
10 sixteen years old but less than eighteen years old and not married
11 to the perpetrator and the perpetrator is at least ten years older
12 than the victim.

13 (2) Rape of a child in the fourth degree is a gross
14 misdemeanor.

15
16 NEW SECTION. **Sec. 2.** A new section is added to chapter
17 9A.44 RCW to read as follows:

18 (1) A person is guilty of child molestation in the fourth
19 degree when the person has, or knowingly causes another person
20 under the age of eighteen to have, sexual contact with another who
21 is at least sixteen years old but less than eighteen years old and
22 not married to the perpetrator and the perpetrator is at least ten
23 years older than the victim.

24 (2) Child molestation in the fourth degree is a gross
25 misdemeanor.

26
27 NEW SECTION. **Sec. 3.** A new section is added to chapter
28 9A.44 RCW to read as follows:

29 In a prosecution under sections 1 or 2 of this act, it is an
30 affirmative defense that the defendant must prove by a

1 preponderance of the evidence, that the defendant did not know that
2 the minor was sixteen or seventeen years of age.

3
4 NEW SECTION. **Sec. 4.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected."

8
9 Correct the title accordingly

EFFECT: The amendment extends the age difference between the perpetrator and minor to at least 10 years. The penalties are lowered from class C felonies to gross misdemeanors. The defendant may establish an affirmative defense that the defendant did not know that the minor was 16 or 17 years old. The defendant must prove the defense by a preponderance of the evidence.