

SENATE BILL REPORT

SHB 1097

As Reported By Senate Committee On:
Judiciary, March 21, 2007

Title: An act relating to protecting frail elders and vulnerable adults and persons with developmental disabilities from perpetrators who commit their crimes while providing transportation, within the course of their employment, to frail elders and vulnerable adults and persons with developmental disabilities.

Brief Description: Protecting frail elders and vulnerable adults and persons with developmental disabilities from perpetrators who commit their crimes while providing transportation, within the course of their employment, to frail elders and vulnerable adults and persons with developmental disabilities.

Sponsors: House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Miloscia, Priest, Chase, Green, Ormsby, B. Sullivan, O'Brien, Morrell, Kenney, Moeller, Wallace, McCune and Simpson).

Brief History: Passed House: 2/12/07, 96-0.

Committee Activity: Judiciary: 3/21/07 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, Murray, Roach and Weinstein.

Staff: Juliana Roe (786-7405)

Background: An individual commits rape in the second degree if he or she engages in sexual intercourse with another: (1) by forcible compulsion; (2) when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; (3) when the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim; (4) when the perpetrator is a health care provider and the intercourse occurs during a treatment session, consultation, interview, or examination; (5) when the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or (6) when the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim. Rape in the second degree is a class A felony.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

An individual commits indecent liberties if he or she engages in sexual contact with another: (1) by forcible compulsion; (2) when the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless; (3) when the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim; (4) when the perpetrator is a health care provider, and the sexual contact occurs during a treatment session, consultation, interview, or examination; (5) when the victim is a resident of a facility for mentally disordered or chemically dependant persons and the perpetrator is a person who is not married to the victim has supervisory authority over the victim; or (6) when the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim. Indecent liberties is a class A felony.

If the offender, who is not a persistent offender, is convicted of rape in the second degree or indecent liberties with forcible compulsion, and there has been a finding that the victim was under the age of 15 at the time of the offense, the minimum term will be either the maximum of the standard sentence range for the offense or 25 years, whichever is greater.

If the offender, who is not a persistent offender, is convicted of rape in the second degree with forcible compulsion or indecent liberties with forcible compulsion, and there has been a finding that the victim was under the age of 15 at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult, the minimum sentence will be either the maximum of the standard sentence range for the offense or 25 years, whichever is greater.

Summary of Substitute Bill: An individual commits rape in the second degree if he or she: (1) has sexual intercourse with a frail elder, a vulnerable adult, or a person with a developmental disability; and (2) was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

An individual commits indecent liberties if he or she: (1) has sexual contact with a frail elder, a vulnerable adult, or a person with a developmental disability; and (2) was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: A young woman, who has down syndrome, was the victim of a sex crime. The perpetrator was a transportation provider. The perpetrator drove the victim from her place of work, after dropping off all others using his services, to an isolated, unfamiliar location and raped her. The King County Prosecutor's Office could not file charges under rape in the second degree because the factual circumstances were not covered under that crime. Therefore, the perpetrator was charged with lesser crimes and sentenced to less than one year in jail.

Persons Testifying: PRO: Patty Fitzpatrick, citizen.