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ENGROSSED HOUSE BILL 1385

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Halder, VanDeWege, Kessler, Pearson, Takko, Klippert, Blake, Morrell, Dammeier, Warnick, Smith, and Johnson

Read first time 01/20/09. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to sexual misconduct by school employees; and  
2 amending RCW 9A.44.093 and 9A.44.096.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.44.093 and 2005 c 262 s 2 are each amended to read  
5 as follows:

6 (1) A person is guilty of sexual misconduct with a minor in the  
7 first degree when: (a) The person has, or knowingly causes another  
8 person under the age of eighteen to have, sexual intercourse with  
9 another person who is at least sixteen years old but less than eighteen  
10 years old and not married to the perpetrator, if the perpetrator is at  
11 least sixty months older than the victim, is in a significant  
12 relationship to the victim, and abuses a supervisory position within  
13 that relationship in order to engage in or cause another person under  
14 the age of eighteen to engage in sexual intercourse with the victim;  
15 (b) the person is a school employee who has, or knowingly causes  
16 another person under the age of eighteen to have, sexual intercourse  
17 with a registered student of the same school who is at least sixteen  
18 years old but less than twenty years old and not married to the  
19 employee, if the employee is at least sixty months older than the

1 student; or (c) the person is a foster parent who has, or knowingly  
2 causes another person under the age of eighteen to have, sexual  
3 intercourse with his or her foster child who is at least sixteen.

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

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

11 **Sec. 2.** RCW 9A.44.096 and 2005 c 262 s 3 are each amended to read  
12 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 least  
18 sixty months older than the victim, is in a significant relationship to  
19 the victim, and abuses a supervisory position within that relationship  
20 in order to engage in or cause another person under the age of eighteen  
21 to engage in sexual contact with the victim; (b) the person is a school  
22 employee who has, or knowingly causes another person under the age of  
23 eighteen to have, sexual contact with a registered student of the same  
24 school who is at least sixteen years old but less than twenty years old  
25 and not married to the employee, if the employee is at least sixty  
26 months older than the student; or (c) the person is a foster parent who  
27 has, or knowingly causes another person under the age of eighteen to  
28 have, sexual contact with his or her foster child who is at least  
29 sixteen.

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

32 (3) For the purposes of this section, "school employee" means an  
33 employee of a common school defined in RCW 28A.150.020, or a grade  
34 kindergarten through twelve employee of a private school under chapter  
35 28A.195 RCW, who is not enrolled as a student of the common school or

1 private school.

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