

SENATE BILL REPORT

SHB 1737

AS OF MARCH 26, 1993

Brief Description: Changing provisions relating to crimes against minors and developmentally disabled persons.

SPONSORS: House Committee on Judiciary (originally sponsored by Representatives Ballasiotes, Campbell, Dyer, Morris, Thomas, Schoesler, Chappell, Dorn, Riley, Anderson, H. Myers, Mielke, Van Luven, Cooke, Scott, Foreman, Jones, Ballard, Jacobsen, Brough, Kremen, Silver, Rayburn, G. Fisher, Orr, Long, Johanson, Schmidt and Wood)

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Tom McBride (786-7448)

Hearing Dates: March 30, 1993

BACKGROUND:

Issues concerning communicating with a minor for immoral purposes. The crime of communicating with a minor for immoral purposes has been given a very narrow interpretation in an appellate case.

That case held that the communicating with a minor statute only applied to communications made in an attempt to complete other sex crimes which are prohibited in Chapter RCW 9.68A. That chapter concerns crimes involving sexual exploitation of children. Other chapters in the code prohibit sex offenses against children such as rape and incest. The appellate court held that a conviction for communicating with a minor for the purposes of committing other sex offenses, such as rape of a child or child molestation, would be unconstitutional because those offenses are not included in the "core" of the statutory provision and therefore, as applied, the statute would be too vague.

Issues concerning incidents of attempts to lure children into cars. Apparently some incidents that involve apparent attempts to lure children into cars have not been prosecuted under the attempted kidnapping statutes.

The crime of kidnapping applies to all persons, but the crime of communicating with a minor for immoral purposes only applies to minors and not developmentally disabled adults.

SUMMARY:

A definition of communicating with a minor for immoral purposes is provided to address constitutional defects, and a new crime of "luring" is created.

New definition of communicating with a minor for immoral purposes. An intent section provides that the Legislature intends to clarify that the offense of communicating with a minor for immoral purposes occurs whenever a person communicates with a minor for the sexual gratification of the perpetrator or, for purposes which, if completed, would be a sex offense. The Legislature also intends to prohibit communications for the sexual exploitation of minors and for the grooming of minors to facilitate sex abuse. The Legislature also intends to protect developmentally disabled adults from communications with them for immoral purposes.

The communicating with a minor for immoral purposes statutes is amended to correct the constitutional inadequacies described by the appellate courts.

"Immoral purposes" means:

- (1) Any act which, if completed, would constitute a violation of the chapters governing sexual exploitation of children, rape and child molestation, incest, or indecent exposure and prostitution; or
- (2) Conduct or communication with a minor or developmentally disabled person when committed for the sexual gratification of the perpetrator and the minor or developmentally disabled person is the object of the sexual gratification.

"Minor" means a person under age 18 when communicating with the minor for immoral purposes prohibiting certain conduct with minors under age 18, such as the sexual exploitation provisions, incest, indecent exposure, prostitution, and sexual misconduct with a minor. In all other cases, "minor" means a person under age 16, which is the upper age limit for committing sex offenses against a child, such as rape of a child. "Developmentally disabled person" is defined according to the definition in statutes governing the developmentally disabled.

The new crime of "luring." A new crime of "luring" is created. A person who lures a minor or a developmentally disabled person into a structure that is obscured from or inaccessible to the public or into a motor vehicle without the consent of the minor's parent or the developmentally disabled person's guardian, and the person is unknown to the child or developmentally disabled person, is guilty of a class C felony.

It is a defense to luring, which the defendant must prove by a preponderance of the evidence, that the defendant's actions were reasonable under the circumstances and the defendant did

not have any intent to harm the safety, health, or welfare of the minor or the developmentally disabled person. For the purposes of the luring statute, a "minor" is a person under age 16. "Developmentally disabled person" is defined according to the definition in statutes governing the developmentally disabled.

A severability clause is added.

Appropriation: none

Revenue: none

Fiscal Note: none requested