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SENATE BILL 6154

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State of Washington                      55th Legislature                      1998 Regular Session

By Senators Fairley, Kohl and Winsley

Read first time 01/12/98. Referred to Committee on Law & Justice.

1            AN ACT Relating to drug-assisted sex offenses; amending RCW  
2 9A.44.050 and 9A.44.100; and adding a new section to chapter 9A.44 RCW.

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

4            **Sec. 1.** RCW 9A.44.050 and 1997 c 392 s 514 are each amended to  
5 read as follows:

6            (1) A person is guilty of rape in the second degree when, under  
7 circumstances not constituting rape in the first degree, the person  
8 engages in sexual intercourse with another person:

9            (a) By forcible compulsion;

10           (b) When the victim is incapable of consent by reason of being  
11 physically helpless or mentally incapacitated, including controlled  
12 substance-induced physical helplessness or mental incapacity caused by  
13 the perpetrator of the rape;

14           (c) When the victim is developmentally disabled and the perpetrator  
15 is a person who is not married to the victim and who has supervisory  
16 authority over the victim;

17           (d) When the perpetrator is a health care provider, the victim is  
18 a client or patient, and the sexual intercourse occurs during a  
19 treatment session, consultation, interview, or examination. It is an

1 affirmative defense that the defendant must prove by a preponderance of  
2 the evidence that the client or patient consented to the sexual  
3 intercourse with the knowledge that the sexual intercourse was not for  
4 the purpose of treatment;

5 (e) When the victim is a resident of a facility for mentally  
6 disordered or chemically dependent persons and the perpetrator is a  
7 person who is not married to the victim and has supervisory authority  
8 over the victim; or

9 (f) When the victim is a frail elder or vulnerable adult and the  
10 perpetrator is a person who is not married to the victim and who has a  
11 significant relationship with the victim.

12 (2) Rape in the second degree is a class A felony.

13 **Sec. 2.** RCW 9A.44.100 and 1997 c 392 s 515 are each amended to  
14 read as follows:

15 (1) A person is guilty of indecent liberties when he or she  
16 knowingly causes another person who is not his or her spouse to have  
17 sexual contact with him or her or another:

18 (a) By forcible compulsion;

19 (b) When the other person is incapable of consent by reason of  
20 being mentally defective, mentally incapacitated, or physically  
21 helpless, including controlled substance-induced physical helplessness  
22 or mental incapacity caused by the perpetrator of the rape;

23 (c) When the victim is developmentally disabled and the perpetrator  
24 is a person who is not married to the victim and who has supervisory  
25 authority over the victim;

26 (d) When the perpetrator is a health care provider, the victim is  
27 a client or patient, and the sexual contact occurs during a treatment  
28 session, consultation, interview, or examination. It is an affirmative  
29 defense that the defendant must prove by a preponderance of the  
30 evidence that the client or patient consented to the sexual contact  
31 with the knowledge that the sexual contact was not for the purpose of  
32 treatment;

33 (e) When the victim is a resident of a facility for mentally  
34 disordered or chemically dependent persons and the perpetrator is a  
35 person who is not married to the victim and has supervisory authority  
36 over the victim; or

1 (f) When the victim is a frail elder or vulnerable adult and the  
2 perpetrator is a person who is not married to the victim and who has a  
3 significant relationship with the victim.

4 (2) Indecent liberties is a class B felony.

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

7 Rape crisis centers, law enforcement, and hospital emergency rooms  
8 shall provide to all personnel investigating cases of sexual assault  
9 training on how to recognize the presence of sedating substances, how  
10 to test for such substances, and the appropriate chain of custody  
11 procedure to follow so that such evidence may be used in a court of  
12 law. The training required by this section may be incorporated into  
13 existing training programs.

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