

2 **SSB 5305** - S COMM AMD

3 By Committee on Health & Long-Term Care

4 ADOPTED 2/11/98

5 On page 30, after line 27, insert the following:

6 "Sec. 6. RCW 9A.44.050 and 1997 c 392 s 514 are each amended to
7 read as follows:

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

11 (a) By forcible compulsion;

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

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

19 (d) When the perpetrator is a health care provider, the victim is
20 a client or patient, and the sexual intercourse occurs during a
21 treatment session, consultation, interview, or examination. It is an
22 affirmative defense that the defendant must prove by a preponderance of
23 the evidence that the client or patient consented to the sexual
24 intercourse with the knowledge that the sexual intercourse was not for
25 the purpose of treatment;

26 (e) When the victim is a resident of a facility for mentally
27 disordered or chemically dependent persons and the perpetrator is a
28 person who is not married to the victim and has supervisory authority
29 over the victim; or

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

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

34 **Sec. 7.** RCW 9A.44.100 and 1997 c 392 s 515 are each amended to
35 read as follows:

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

4 (a) By forcible compulsion;

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

9 (c) When the victim is developmentally disabled and the perpetrator
10 is a person who is not married to the victim and who has supervisory
11 authority over the victim;

12 (d) When the perpetrator is a health care provider, the victim is
13 a client or patient, and the sexual contact occurs during a treatment
14 session, consultation, interview, or examination. It is an affirmative
15 defense that the defendant must prove by a preponderance of the
16 evidence that the client or patient consented to the sexual contact
17 with the knowledge that the sexual contact was not for the purpose of
18 treatment;

19 (e) When the victim is a resident of a facility for mentally
20 disordered or chemically dependent persons and the perpetrator is a
21 person who is not married to the victim and has supervisory authority
22 over the victim; or

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

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

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 9A.44 RCW
28 to read as follows:

29 Rape crisis centers, law enforcement, and hospital emergency rooms
30 shall provide to all personnel investigating cases of sexual assault
31 training on how to recognize the presence of sedating substances, how
32 to test for such substances, and the appropriate chain of custody
33 procedure to follow so that such evidence may be used in a court of
34 law. The training required by this section may be incorporated into
35 existing training programs."

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4 On page 1, line 2 of the title, after "69.50.406," strike "and" and
5 after "13.40.0357" insert ", 9A.44.050, and 9A.44.100"

6 On page 1, line 3 of the title, after "9.94A.320;" insert "adding
7 a new section to chapter 9A.44 RCW;"

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