
HOUSE BILL 3168

State of Washington

59th Legislature

2006 Regular Session

By Representatives Miloscia, Priest, McDonald, Chase, Santos, Rodne and O'Brien

Read first time 01/24/2006. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to protecting persons with developmental
2 disabilities from perpetrators who commit their crimes while providing
3 transportation, within the course of their employment, to persons with
4 developmental disabilities; amending RCW 9A.44.050 and 9A.44.100;
5 prescribing penalties; and declaring an emergency.

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

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

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

12 (a) By forcible compulsion;

13 (b) When the victim is incapable of consent by reason of being
14 physically helpless or mentally incapacitated;

15 (c) When the victim is (~~developmentally disabled~~) a person with
16 a developmental disability and the perpetrator is a person who is not
17 married to the victim and who:

18 (i) Has supervisory authority over the victim; or

1 (ii) Was providing transportation to the victim at the time of the
2 offense within the course of his or her employment;

3 (d) When the perpetrator is a health care provider, the victim is
4 a client or patient, and the sexual intercourse occurs during a
5 treatment session, consultation, interview, or examination. It is an
6 affirmative defense that the defendant must prove by a preponderance of
7 the evidence that the client or patient consented to the sexual
8 intercourse with the knowledge that the sexual intercourse was not for
9 the purpose of treatment;

10 (e) When the victim is a resident of a facility for mentally
11 disordered or chemically dependent persons and the perpetrator is a
12 person who is not married to the victim and has supervisory authority
13 over the victim; or

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

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

18 **Sec. 2.** RCW 9A.44.100 and 2003 c 53 s 67 are each amended to read
19 as follows:

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

23 (a) By forcible compulsion;

24 (b) When the other person is incapable of consent by reason of
25 being mentally defective, mentally incapacitated, or physically
26 helpless;

27 (c) When the victim is (~~developmentally disabled~~) a person with
28 a developmental disability and the perpetrator is a person who is not
29 married to the victim and who:

30 (i) Has supervisory authority over the victim; or

31 (ii) Was providing transportation to the victim at the time of the
32 offense within the course of his or her employment;

33 (d) When the perpetrator is a health care provider, the victim is
34 a client or patient, and the sexual contact occurs during a treatment
35 session, consultation, interview, or examination. It is an affirmative
36 defense that the defendant must prove by a preponderance of the

1 evidence that the client or patient consented to the sexual contact
2 with the knowledge that the sexual contact was not for the purpose of
3 treatment;

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

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

11 (2)(a) Except as provided in (b) of this subsection, indecent
12 liberties is a class B felony.

13 (b) Indecent liberties by forcible compulsion is a class A felony.

14 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately.

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