

CHAPTER 244

[House Bill No. 307]

CRIMES—CLASSIFICATION—FORCE, USE OF—CHECKS, ISSUANCE,
STOP PAYMENTS—ARREST

AN ACT Relating to crimes and criminal procedure; amending section 4, chapter 14, Laws of 1975 1st ex. sess. as amended by section 1, chapter 247, Laws of 1975 1st ex. sess. and RCW 9.79.170; amending section 5, chapter 14, Laws of 1975 1st ex. sess. and RCW 9.79.180; amending section 6, chapter 14, Laws of 1975 1st ex. sess. and RCW 9.79.190; amending section 7, chapter 14, Laws of 1975 1st ex. sess. and RCW 9.79.200; amending section 8, chapter 14, Laws of 1975 1st ex. sess. and RCW 9.79.210; amending section 9, chapter 14, Laws of 1975 1st ex. sess. and RCW 9.79.220; amending section 9A.16.020, chapter 260, Laws of 1975 1st ex. sess. as amended by section 13, chapter 80, Laws of 1977 ex. sess. and RCW 9A.16.020; amending section 9A.16.030, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.16.030; amending section 9A.36.020, chapter 260, Laws of 1975 1st ex. sess. as amended by section 5, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.36.020; amending section 9A.36.030, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.36.030; amending section 9A.48.100, chapter 260, Laws of 1975 1st ex. sess. as amended by section 1, chapter 174, Laws of 1977 ex. sess. and RCW 9A.48.100; amending section 9A.52.070, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.52.070; amending section 9A.52.080, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.52.080; amending section 9A.56.060, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.56.060; amending section 9A.88.030, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.88.030; amending section 14, chapter 46, Laws of 1971 ex. sess. and RCW 10.88.330; decodifying RCW 9.79.140, 9.79.150, 9.79.160, 9.79.170, 9.79.180, 9.79.190, 9.79.200, 9.79.210, 9.79.220, 9A.88.020, and 9A.88.100 and adding these sections to Title 9A RCW as a new chapter to be designated chapter 9A.44 RCW; prescribing penalties; declaring an emergency; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 4, chapter 14, Laws of 1975 1st ex. sess. as amended by section 1, chapter 247, Laws of 1975 1st ex. sess. and RCW 9.79.170 are each amended to read as follows:

(1) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person not married to the perpetrator by forcible compulsion where the perpetrator or an accessory:

(a) Uses or threatens to use a deadly weapon; or

(b) Kidnaps the victim; or

(c) Inflicts serious physical injury; or

(d) Feloniously enters into the building or vehicle where the victim is situated.

(2) Rape in the first degree is a class A felony (~~and shall be punished by imprisonment in the state penitentiary for a term of not less than twenty years~~). No person convicted of rape in the first degree shall be granted a deferred or suspended sentence except for the purpose of commitment to an inpatient treatment facility: PROVIDED, That every person convicted of rape in the first degree shall be confined for a minimum of three years: PROVIDED FURTHER, That the board of prison terms and paroles shall have authority to set a period of confinement greater than three years but shall never reduce the minimum three-year period of confinement nor shall

the board release the convicted person during the first three years of confinement as a result of any type of automatic good time calculation nor shall the department of social and health services permit the convicted person to participate in any work release program or furlough program during the first three years of confinement.

Sec. 2. Section 5, chapter 14, Laws of 1975 1st ex. sess. and RCW 9.79.180 are each amended to read as follows:

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

- (a) By forcible compulsion; or
- (b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated.

(2) Rape in the second degree is a class B felony~~((, and shall be punished by imprisonment in the state penitentiary for not more than ten years))~~.

Sec. 3. Section 6, chapter 14, Laws of 1975 1st ex. sess. and RCW 9.79.190 are each amended to read as follows:

(1) A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person, not married to the perpetrator:

(a) Where the victim did not consent as defined in RCW 9.79.140(6), as recodified by this 1979 act, to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct, or

(b) Where there is threat of substantial unlawful harm to property rights of the victim.

(2) Rape in the third degree is a class C felony~~((, and shall be punished by imprisonment in the state penitentiary for not more than five years))~~.

Sec. 4. Section 7, chapter 14, Laws of 1975 1st ex. sess. and RCW 9.79.200 are each amended to read as follows:

(1) A person over thirteen years of age is guilty of statutory rape in the first degree when the person engages in sexual intercourse with another person who is less than eleven years old.

(2) Statutory rape in the first degree is a class A felony~~((, and shall be punished by imprisonment in the state penitentiary for a term of not less than twenty years))~~. No person convicted of statutory rape in the first degree shall be granted a deferred or suspended sentence except for the purpose of commitment to an inpatient treatment facility.

Sec. 5. Section 8, chapter 14, Laws of 1975 1st ex. sess. and RCW 9.79.210 are each amended to read as follows:

(1) A person over sixteen years of age is guilty of statutory rape in the second degree when such person engages in sexual intercourse with another person, not married to the perpetrator, who is eleven years of age or older but less than fourteen years old.

(2) Statutory rape in the second degree is a class B felony~~((, and shall be punished by imprisonment in the state penitentiary for not more than ten years))~~.

Sec. 6. Section 9, chapter 14, Laws of 1975 1st ex. sess. and RCW 9.79.220 are each amended to read as follows:

(1) A person over eighteen years of age is guilty of statutory rape in the third degree when such person engages in sexual intercourse with another person, not married to the perpetrator, who is fourteen years of age or older but less than sixteen years old.

(2) Statutory rape in the third degree is a class C felony~~((, and shall be punished by imprisonment in the state penitentiary for not more than five years))~~.

Sec. 7. Section 9A.16.020, chapter 260, Laws of 1975 1st ex. sess. as amended by section 13, chapter 80, Laws of 1977 ex. sess. and RCW 9A.16.020 are each amended to read as follows:

The use, attempt, or offer to use force upon or toward the person of another ~~((shall))~~ is not ~~((be))~~ unlawful in the following cases:

(1) Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting him and acting under his direction;

(2) Whenever necessarily used by a person arresting one who has committed a felony and delivering him to a public officer competent to receive him into custody;

(3) Whenever used by a party about to be injured, or by another lawfully aiding him, in preventing or attempting to prevent an offense against his person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his possession, in case the force is not more than ~~((shall be))~~ is necessary;

(4) Whenever reasonably used by a person to detain someone who enters or remains unlawfully in a building or on real property lawfully in the possession of such person, so long as such detention is reasonable in duration and manner to investigate the reason for the detained person's presence on the premises, and so long as the premises in question did not reasonably appear to be intended to be open to members of the public;

(5) Whenever used in a reasonable and moderate manner by a parent or his authorized agent, a guardian, master, or teacher in the exercise of lawful authority, to restrain or correct his child, ward, apprentice, or scholar;

~~((5))~~ (6) Whenever used by a carrier of passengers or his authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct

of passengers, if such vehicle has first been stopped and the force used is not more than ~~((shall be))~~ is necessary to expel the offender with reasonable regard to his personal safety;

~~((6))~~ (7) Whenever used by any person to prevent a mentally ill, mentally incompetent, or mentally disabled person from committing an act dangerous to himself or another, or in enforcing necessary restraint for the protection of his person, or his restoration to health, during such period only as ~~((shall be))~~ is necessary to obtain legal authority for the restraint or custody of his person.

Sec. 8. Section 9A.16.030, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.16.030 are each amended to read as follows:

Homicide is excusable when committed by accident or misfortune in doing any lawful act by lawful means, ~~((with ordinary caution and))~~ without criminal negligence, or without any unlawful intent.

Sec. 9. Section 9A.36.020, chapter 260, Laws of 1975 1st ex. sess. as amended by section 5, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.36.020 are each amended to read as follows:

(1) Every person who, under circumstances not amounting to assault in the first degree shall be guilty of assault in the second degree when he:

(a) With intent to injure, shall unlawfully administer to or cause to be taken by another, poison or any other destructive or noxious thing, or any drug or medicine the use of which is dangerous to life or health; or

(b) Shall knowingly inflict grievous bodily harm upon another with or without a weapon; or

(c) Shall knowingly assault another with a weapon or other instrument or thing likely to produce bodily harm; or

(d) Shall knowingly assault another with intent to commit a felony~~((; or~~

~~(e) With criminal negligence, shall cause physical injury to another person by means of a weapon or other instrument or thing likely to produce bodily harm)).~~

(2) Assault in the second degree is a class B felony.

Sec. 10. Section 9A.36.030, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.36.030 are each amended to read as follows:

(1) Every person who, under circumstances not amounting to assault in either the first or second degree, shall ~~((assault another))~~ be guilty of assault in the third degree when he:

(a) With intent to prevent or resist the execution of any lawful process or mandate of any court officer((;)) or the lawful apprehension or detention of himself or another person shall ~~((be guilty of assault in the third degree))~~ assault another; or

(b) With criminal negligence, shall cause physical injury to another person by means of a weapon or other instrument or thing likely to produce bodily harm.

(2) Assault in the third degree is a class C felony.

Sec. 11. Section 9A.48.100, chapter 260, Laws of 1975 1st ex. sess. as amended by section 1, chapter 174, Laws of 1977 ex. sess. and RCW 9A.48.100 are each amended to read as follows:

For the purposes of RCW 9A.48.070 through 9A.48.090 inclusive(;;):

(1) "Physical damage", in addition to its ordinary meaning, shall include the alteration, damage, or erasure of records, information, data, or computer programs which are electronically recorded for use in computers and shall also include the injury or destruction of livestock;

(2) If more than one item of property is physically damaged as a result of a common scheme or plan by a person and the physical damage to the property would, when considered separately, constitute mischief in the third degree because of value, then the value of the damages may be aggregated in one count. If the sum of the value of all the physical damages exceeds two hundred fifty dollars, the defendant may be charged with and convicted of malicious mischief in the second degree.

Sec. 12. Section 9A.52.070, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.52.070 are each amended to read as follows:

(1) A person is guilty of criminal trespass in the first degree if he knowingly enters or remains unlawfully in a building (~~or on real property adjacent thereto or upon real property which is fenced or otherwise enclosed in a manner designed to exclude intruders~~).

(2) Criminal trespass in the first degree is a gross misdemeanor.

Sec. 13. Section 9A.52.080, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.52.080 are each amended to read as follows:

(1) A person is guilty of criminal trespass in the second degree if he knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree.

(2) Criminal trespass in the second degree is a misdemeanor.

Sec. 14. Section 9A.56.060, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.56.060 are each amended to read as follows:

(1) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft, on a bank or other depository for the payment of money, knowing at the time of such drawing, or delivery, that he has not sufficient funds in, or credit with said bank or other depository, to meet said check or draft, in full upon its presentation, shall be guilty of unlawful issuance of bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivery of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

(2) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft on a bank or other depository for the payment of money and who issues a stop-payment order directing the bank or depository on which the check is drawn not to honor said check, and who fails to make payment of money in the amount of the check or draft or otherwise arrange a settlement agreed upon by the holder of the check within thirty days of issuing said check or draft shall be guilty of unlawful issuance of a bank check.

(3) When any series of transactions which constitute unlawful issuance of a bank check would, when considered separately, constitute unlawful issuance of a bank check in an amount of two hundred fifty dollars or less because of value, and the series of transactions are a part of a common scheme or plan, the transactions may be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining whether the unlawful issuance of a bank check is to be punished as a class C felony or a gross misdemeanor.

(4) Unlawful issuance of a bank check in an amount greater than two hundred (~~and~~) fifty dollars is a class C felony.

~~((3))~~ (5) Unlawful issuance of a bank check in an amount of two hundred (~~and~~) fifty dollars or less is a gross misdemeanor.

Sec. 15. Section 9A.88.030, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.88.030 are each amended to read as follows:

(1) A person is guilty of prostitution if such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(2) For purposes of this section, "sexual conduct" means "sexual intercourse" as defined in RCW 9.79.140(1) as recodified by this 1979 act or "sexual contact" as defined in RCW 9A.88.100(2) as recodified by this 1979 act.

(3) Prostitution is a misdemeanor.

Sec. 16. Section 14, chapter 46, Laws of 1971 ex. sess. and RCW 10.88.330 are each amended to read as follows:

(1) The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in RCW 10.88.320; and thereafter his answer shall be heard as if he had been arrested on a warrant.

(2) An officer of the United States customs service or the immigration and naturalization service may, without a warrant, arrest a person if:

(a) The officer is on duty;

(b) One or more of the following situations exists:

(i) The person commits an assault or other crime involving physical harm, defined and punishable under chapter 9A.36 RCW, against the officer or against any other person in the presence of the officer;

(ii) The person commits an assault or related crime while armed, defined and punishable under chapter 9.41 RCW, against the officer or against any other person in the presence of the officer;

(iii) The officer has reasonable cause to believe that a crime as defined in (b) (i) or (ii) of this subsection has been committed and reasonable cause to believe that the person to be arrested has committed it;

(iv) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person to be arrested has committed it; or

(v) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source that a peace officer holds a warrant for the person's arrest; and

(c) The regional commissioner of customs certifies to the state of Washington that the customs officer has received proper training within the agency to enable that officer to enforce or administer this subsection.

NEW SECTION. Sec. 17. RCW 9.79.140, 9.79.150, 9.79.160, 9.79.170 as now or hereafter amended, 9.79.180 as now or hereafter amended, 9.79.190 as now or hereafter amended, 9.79.200 as now or hereafter amended, 9.79.210 as now or hereafter amended, 9.79.220 as now or hereafter amended, 9A.88.020, and 9A.88.100 are each decodified and are each added to Title 9A RCW as a new chapter with the designation chapter 9A.44 RCW.

NEW SECTION. Sec. 18. The sections decodified by section 17 of this 1979 act and added to Title 9A RCW as a new chapter with the designation chapter 9A.44 RCW shall be construed as part of Title 9A RCW.

NEW SECTION. Sec. 19. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1979.

Passed the House May 25, 1979.

Passed the Senate May 24, 1979.

Approved by the Governor June 15, 1979.

Filed in Office of Secretary of State June 15, 1979.

CHAPTER 245

[Substitute House Bill No. 554]

SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE

AN ACT Relating to shelters for victims of domestic violence; adding a new chapter to Title 70 RCW; creating a new section; and making an appropriation.