

NEW SECTION. Sec. 23. Sections 2 through 9 and 22 of this act are each added to chapter 9A.44 RCW.

NEW SECTION. Sec. 24. The following acts or parts of acts are each repealed:

(1) Section 7, chapter 14, Laws of 1975 1st ex. sess., section 4, chapter 244, Laws of 1979 ex. sess., section 31, chapter 257, Laws of 1986 and RCW 9A.44.070;

(2) Section 8, chapter 14, Laws of 1975 1st ex. sess., section 5, chapter 244, Laws of 1979 ex. sess. and RCW 9A.44.080; and

(3) Section 9, chapter 14, Laws of 1975 1st ex. sess., section 6, chapter 244, Laws of 1979 ex. sess. and RCW 9A.44.090.

NEW SECTION. Sec. 25. This act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on July 1, 1988, and shall apply only to offenses committed on or after July 1, 1988.

NEW SECTION. Sec. 26. This act shall take effect July 1, 1988.

Passed the House March 9, 1988.

Passed the Senate March 8, 1988.

Approved by the Governor March 21, 1988.

Filed in Office of Secretary of State March 21, 1988.

CHAPTER 146

[Substitute House Bill No. 1302]

SEXUAL OFFENSES INVOLVING DEVELOPMENTALLY DISABLED VICTIMS—
PATRONIZING A PROSTITUTE

AN ACT Relating to sexual offenses; amending RCW 9A.44.050, 9A.44.100, and 9A.44.010; adding a new section to chapter 9A.88 RCW; prescribing penalties; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 5, chapter 14, Laws of 1975 1st ex. sess. as last amended by section 2, chapter 118, Laws of 1983 and RCW 9A.44.050 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:

(a) By forcible compulsion; ~~((or))~~

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

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

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

Sec. 2. Section 9A.88.100, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 10, chapter ... (SHB 1333), Laws of 1988 and RCW 9A.44.100 are each amended to read as follows:

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

(a) By forcible compulsion; or

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

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

(2) Indecent liberties is a class B felony.

Sec. 3. Section 1, chapter 14, Laws of 1975 1st ex. sess. as last amended by section 1, chapter ... (SHB 1333), Laws of 1988 and RCW 9A.44.010 are each amended to read as follows:

As used in this chapter:

(1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party.

(3) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(4) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause(;)₂

(5) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act(;)₂

(6) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped(;)₂

(7) "Consent" means that at the time of the act of sexual intercourse there are actual words or conduct indicating freely given agreement to have sexual intercourse(;;).

(8) "Significant relationship" means a situation in which the perpetrator is:

(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors; or

(b) A person who in the course of his or her employment supervises minors.

(9) "Abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

(10) "Developmentally disabled," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person as defined in RCW 71.20.016.

(11) "Person with supervisory authority," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled persons at the facility.

NEW SECTION. Sec. 4. A new section is added to chapter 9A.88 RCW to read as follows:

Patronizing a prostitute. (1) A person is guilty of patronizing a prostitute if:

(a) Pursuant to a prior understanding, he or she pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him or her; or

(b) He or she pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person will engage in sexual conduct with him or her; or

(c) He or she solicits or requests another person to engage in sexual conduct with him or her in return for a fee.

(2) For purposes of this section, "sexual conduct" has the meaning given in RCW 9A.88.030.

(3) Patronizing a prostitute is a misdemeanor.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. Section 4 of 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 immediately. The remainder of this act shall take effect July 1, 1988.

Passed the House March 10, 1988.

Passed the Senate March 10, 1988.

Approved by the Governor March 21, 1988.

Filed in Office of Secretary of State March 21, 1988.

CHAPTER 147

[Substitute House Bill No. 1377]

PRECURSOR DRUGS—CRIMINAL PENALTIES

AN ACT Relating to certain substances that may be used to produce controlled substances; adding a new chapter to Title 69 RCW; providing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) Beginning July 1, 1988, a report to the state board of pharmacy shall be submitted in accordance with this chapter by a manufacturer, retailer, or other person who sells, transfers, or otherwise furnishes to any person in this state any of the following substances or their salts or isomers:

- (a) Anthranilic acid;
- (b) Barbituric acid;
- (c) Chlorephedrine;
- (d) Diethyl malonate;
- (e) D-lysergic acid;
- (f) Ephedrine;
- (g) Ergotamine tartrate;
- (h) Ethylamine;
- (i) Ethyl malonate;
- (j) Ethylephedrine;
- (k) Lead acetate;
- (l) Malonic acid;
- (m) Methylamine;
- (n) Methylformamide;
- (o) Methyleneephedrine;
- (p) Methylpseudoephedrine;
- (q) N-acetylanthranilic acid;
- (r) Norpseudoephedrine;
- (s) Phenylacetic acid;
- (t) Phenylpropanolamine;
- (u) Piperidine;
- (v) Pseudoephedrine; and
- (w) Pyrrolidine.