

**RCW 9.94A.839 Special allegation—Sexual conduct with victim in return for a fee—Procedures.** (1) In a prosecution for a violation of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, or an anticipatory offense for a violation of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, committed on or after July 22, 2007, the prosecuting attorney may file a special allegation that the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in the sexual conduct in return for a fee, when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding by a reasonable and objective fact finder that the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in the sexual conduct in return for a fee.

(2) Once a special allegation has been made under this section, the state has the burden to prove beyond a reasonable doubt that the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in the sexual conduct in return for a fee. If a jury is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in the sexual conduct in exchange for a fee. If no jury is had, the court shall make a finding of fact as to whether the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in the sexual conduct in exchange for a fee.

(3) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact as defined in chapter 9A.44 RCW. [2007 c 368 s 10.]