

RCW 9A.36.041 Assault in the fourth degree. (1) A person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, he or she assaults another.

(2) Assault in the fourth degree is a gross misdemeanor, except as provided in subsection (3) of this section.

(3)(a) Assault in the fourth degree occurring after July 23, 2017, and before March 18, 2020, where domestic violence is pleaded and proven, is a class C felony if the person has two or more prior adult convictions within ten years for any of the following offenses occurring after July 23, 2017, where domestic violence was pleaded and proven:

- (i) Repetitive domestic violence offense as defined in RCW 9.94A.030;
- (ii) Crime of harassment as defined by RCW 9A.46.060;
- (iii) Assault in the third degree;
- (iv) Assault in the second degree;
- (v) Assault in the first degree; or
- (vi) A municipal, tribal, federal, or out-of-state offense comparable to any offense under (a)(i) through (v) of this subsection.

For purposes of this subsection (3)(a), "family or household members" for purposes of the definition of "domestic violence" means spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, and persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship. "Family or household member" also includes an "intimate partner" as defined in RCW 10.99.020.

(b) Assault in the fourth degree occurring on or after March 18, 2020, where domestic violence against an "intimate partner" as defined in RCW 10.99.020 is pleaded and proven, is a class C felony if the person has two or more prior adult convictions within ten years for any of the following offenses occurring after July 23, 2017, where domestic violence against an "intimate partner" as defined in RCW 10.99.020 or domestic violence against a "family or household member" as defined in (a) of this subsection was pleaded and proven:

- (i) Repetitive domestic violence offense as defined in RCW 9.94A.030;
- (ii) Crime of harassment as defined by RCW 9A.46.060;
- (iii) Assault in the third degree;
- (iv) Assault in the second degree;
- (v) Assault in the first degree; or
- (vi) A municipal, tribal, federal, or out-of-state offense comparable to any offense under (b)(i) through (v) of this subsection. [2021 c 215 § 106; 2020 c 29 § 7; 2017 c 272 § 1; 1987 c 188 § 2; 1986 c 257 § 7.]

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Effective date—2020 c 29: See note following RCW 7.77.060.

Effective date—1986 c 257 §§ 3-10: See note following RCW 9A.04.110.

Effective date—1987 c 188: See note following RCW 9A.36.100.

Severability—1986 c 257: See note following RCW 9A.56.010.