

**RCW 9A.44.010 Definitions.** As used in this chapter:

(1) "Abuse of a supervisory position" means:

(a) To use a direct or indirect threat or promise to exercise authority to the detriment or benefit of a minor; or

(b) To exploit a significant relationship in order to obtain the consent of a minor.

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

(3) "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.

(4) "Frail elder or vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself. "Frail elder or vulnerable adult" also includes a person who has been placed under a guardianship under RCW 11.130.265 or a conservatorship under RCW 11.130.360, a person over eighteen years of age who has a developmental disability under chapter 71A.10 RCW, a person admitted to a long-term care facility that is licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and a person receiving services from a home health, hospice, or home care agency licensed or required to be licensed under chapter 70.127 RCW.

(5) "Health care provider" for purposes of RCW 9A.44.050 and 9A.44.100 means a person who is, holds himself or herself out to be, or provides services as if he or she were: (a) A member of a health care profession under chapter 18.130 RCW; or (b) registered under chapter 18.19 RCW or licensed under chapter 18.225 RCW, regardless of whether the health care provider is licensed, certified, or registered by the state.

(6) "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.

(7) "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.

(8) "Person with a developmental disability," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a developmental disability as defined in RCW 71A.10.020.

(9) "Person with a mental disorder" for the purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental disorder" as defined in RCW 71.05.020.

(10) "Person with a substance use disorder" for purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "substance use disorder" as defined in RCW 71.05.020.

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

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

(13) "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 or a third party.

(14) "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.

(15) "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;

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

(c) A person who provides welfare, health or residential assistance, personal care, or organized recreational activities to frail elders or vulnerable adults, including a provider, employee, temporary employee, volunteer, or independent contractor who supplies services to long-term care facilities licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW, but not including a consensual sexual partner.

(16) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means the active delivery of professional services by a health care provider which the health care provider holds himself or herself out to be qualified to provide. [2023 c 470 § 3007. Prior: 2020 c 312 § 707; 2007 c 20 § 3; 2005 c 262 § 1; 2001 c 251 § 28; prior: 1997 c 392 § 513; 1997 c 112 § 37; 1994 c 271 § 302; 1993 c 477 § 1; 1988 c 146 § 3; 1988 c 145 § 1; 1981 c 123 § 1; 1975 1st ex.s. c 14 § 1. Formerly RCW 9.79.140.]

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Explanatory statement—2023 c 470:** See note following RCW 10.99.030.

**Effective dates—2020 c 312:** See note following RCW 11.130.915.

**Effective date—2007 c 20:** See note following RCW 9A.44.050.

**Severability—2001 c 251:** See RCW 18.225.900.

**Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392:** See notes following RCW 74.39A.009.

**Intent—1994 c 271:** "The legislature hereby reaffirms its desire to protect the children of Washington from sexual abuse and further reaffirms its condemnation of child sexual abuse that takes the form of causing one child to engage in sexual contact with another child for the sexual gratification of the one causing such activities to take place." [1994 c 271 § 301.]

**Purpose—Severability—1994 c 271:** See notes following RCW 9A.28.020.

**Severability—Effective dates—1988 c 146:** See notes following RCW 9A.44.050.

**Effective date—1988 c 145:** "This act shall take effect July 1, 1988." [1988 c 145 § 26.]

**Savings—Application—1988 c 145:** "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." [1988 c 145 § 25.]