WEST VIRGINIA CODE: §61-8b-1

§61-8B-1. Definition of terms.

In this article, unless a different meaning plainly is required:

(1) "Forcible compulsion" means:

(A) Physical force that overcomes such earnest resistance that is reasonably expected under the circumstances;

(B) Threat or intimidation, expressed or implied, placing a person in fear of immediate death or bodily injury to himself or herself or another person, or in fear that he or she or another person will be kidnapped; or

(C) Fear by a person under 16 years of age caused by intimidation, expressed or implied, by another person who is at least four years older than the victim.

For the purposes of this definition, "resistance" includes physical resistance or any clear communication of the victim's lack of consent.

(2) "Mentally defective" means that a person suffers from a mental disease or defect which renders that person incapable of appraising the nature of his or her conduct.

(3) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlled or intoxicating substance administered to that person without his or her consent or as a result of any other act committed upon that person without his or her consent.

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

(5) "Sexual contact" means any intentional touching, either directly or through clothing, of the breasts, buttocks, anus, or any part of the sex organs of another person, or intentional touching of any part of another person’s body by the actor's sex organs and the touching is done for the purpose of gratifying the sexual desire of either party.

(6) "Sexual intercourse" means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person.

(7) "Sexual intrusion" means any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party.

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(8) "Bodily injury" means substantial physical pain, illness, or any impairment of physical condition.

(9) "Serious bodily injury" means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(10) "Deadly weapon" means any instrument, device, or thing capable of inflicting death or serious bodily injury and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

(11) "Forensic medical examination" means an examination provided to a possible victim of a violation of the provisions of this article by medical personnel qualified to gather evidence of the violation in a manner suitable for use in a court of law, to include: An examination for physical trauma; a determination of penetration or force; a patient interview; and the collection and evaluation of other evidence that is potentially relevant to the determination that a violation of the provisions of this article occurred and to the determination of the identity of the assailant.

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