

**HOUSE COMMITTEE AMENDMENTS**

Amendments proposed by House Committee on Administration of Criminal Justice to Reengrossed Senate Bill No. 333 by Senator Johns

1 AMENDMENT NO. 1

2 On page 1, line 2, after "Children's Code" and before "1015(3)(c)" delete "Article" and insert  
3 "Articles 855(B)(7)(f) and (g), 884.1(A)(6) and (7), 897(B)(1)(c), and"

4 AMENDMENT NO. 2

5 On page 1, line 3, after "Articles" and before "R.S. 13:5713(F)" change "465(A)(16) and  
6 (26), 571.1, and 648(B)(3)(g)," to "571.1 and 648(B)(3)(g) and (h),"

7 AMENDMENT NO. 3

8 On page 1, line 4, after "541(2)(j) and (l)" delete the remainder of the line and insert a  
9 comma ","

10 AMENDMENT NO. 4

11 On page 1, after "(24)(a)," delete the remainder of the line and insert "and (25)(d),  
12 542(A)(3)(f) and (g), and 571.3(B)(3)(p) and (4)(d) and (e), R.S. 40:1299.34.5(B)(3),"

13 AMENDMENT NO. 5

14 On page 1, at the end of line 6, change "1300.13(E)(6)," to "1300.13(E)(introductory  
15 paragraph) and (6),"

16 AMENDMENT NO. 6

17 On page 1, line 7, after "Articles" delete the remainder of the line and insert "502(4)(i) and  
18 603(12)(i),"

19 AMENDMENT NO. 7

20 On page 1, at the beginning of line 8, delete "Criminal Procedure Article 648(B)(3)(h),"

21 AMENDMENT NO. 8

22 On page 1, delete lines 9 through 13 in their entirety and insert the following:

23 "15:571.3(B)(3)(i) and (j), relative to offenses affecting sexual immorality;  
24 to repeal the crimes of incest and aggravated incest; to amend the offense of  
25 crime against nature to include the elements and penalties of the crime of  
26 incest; to amend the offense of aggravated crime against nature to include the  
27 elements and penalties of the crime of aggravated incest; to amend various  
28 provisions of law to reflect these changes; to direct the Louisiana State Law  
29 Institute to amend all other provisions of law which reference incest,  
30 aggravated incest, crime against nature, or aggravated crime against nature  
31 accordingly; and to provide for related matters."

1 AMENDMENT NO. 9

2 On page 1, line 15, after "Section 1." delete the remainder of the line and insert the  
3 following:

4  
5 "Children's Code Article 855(B)(7)(f) and (g), 884.1(A)(6) and (7),  
6 897(B)(1)(c), and 1015(3)(c) are hereby amended and"

7 AMENDMENT NO. 10

8 On page 1, between lines 16 and 17, insert the following:

9 "Art. 855. Advice of rights at appearance to answer

10 \* \* \*

11 B. If the child is capable, the court shall then advise the child of the  
12 following items in terms understandable to the child:

13 \* \* \*

14 (7) The possible consequences of his admission that the allegations  
15 are true, including the maximum and minimal dispositions which the court  
16 may impose pursuant to Articles 897 through 900. In addition, if the child  
17 is fourteen years of age or older and the petition charges the child with the  
18 perpetration, attempted perpetration, or conspiracy to commit any of the  
19 following offenses, the court shall inform the child that, if he admits to  
20 allegations of the petition, or the allegations of the petition are found to be  
21 true, he may be required to register as a sex offender pursuant to Chapter 3-B  
22 of Title 15 of the Louisiana Revised Statutes of 1950, and the court shall  
23 inform the child regarding applicable required registrations and their  
24 duration:

25 \* \* \*

26 (f) Aggravated ~~incest~~ crime against nature defined by R.S.  
27 14:89.1(A)(2) involving circumstances defined by ~~R.S. 14:78.1~~ R.S. 15:541  
28 as an aggravated offense.

29 (g) Aggravated crime against nature as defined in R.S. 14:89.1(A)(1).

30 \* \* \*

31 Art. 884.1. Informing the child of sex offender registration and notification  
32 requirements; form

33 A. When the child has admitted the allegations of the petition or  
34 when adjudicated delinquent for any of the following offenses, the court shall  
35 provide him with written notice of the requirements for registration as a sex  
36 offender:

37 \* \* \*

38 (6) Aggravated ~~incest~~ crime against nature defined by R.S.  
39 14:89.1(A)(2) involving circumstances defined by ~~R.S. 14:78.1~~ R.S. 15:541  
40 as an aggravated offense.

41 (7) Aggravated crime against nature as defined in R.S. 14:89.1(A)(1).

42 \* \* \*

43 Art. 897. Disposition after adjudication of a felony-grade delinquent act

44 \* \* \*

45 B. As conditions of probation, if ordered pursuant to Subparagraph  
46 A(3) of this Article:

47 (1) The court shall impose all of the following restrictions:

48 \* \* \*

49  
50 (c) Prohibit the child from possessing a firearm or carrying a  
51 concealed weapon, if he has been adjudicated for any of the following  
52 offenses and probation is not otherwise prohibited: first or second degree  
53 murder; manslaughter; aggravated battery; aggravated, forcible, or simple  
54 rape; aggravated crime against nature as defined by R.S. 14:89.1(A)(1);  
55 aggravated kidnapping; aggravated arson; aggravated or simple burglary;

1 armed or simple robbery; burglary of a pharmacy; burglary of an inhabited  
2 dwelling; unauthorized entry of an inhabited dwelling; or any violation of the  
3 Uniform Controlled Dangerous Substances Law which is a felony or any  
4 crime defined as an attempt to commit one of these enumerated offenses.  
5 \* \* \*

6 AMENDMENT NO. 11

7 On page 2, line 9, after "Aggravated" delete the remainder of the line and insert "crime  
8 against nature as defined by R.S. 14:89.1(A)(2)"

9 AMENDMENT NO. 12

10 On page 2, line 11, after "Articles" delete the remainder of the line and insert "571.1 and"

11 AMENDMENT NO. 13

12 On page 2, line 12, after "648(B)(3)(g)" and before "are" insert "and (h)"

13 AMENDMENT NO. 14

14 On page 2, delete lines 13 through 24 in their entirety

15 AMENDMENT NO. 15

16 On page 4, line 3, after "against" delete the remainder of the line, delete line 4 in its entirety,  
17 and insert the following:

18 "nature).  
19 (h) R.S. 14:78.1 (aggravated incest)R.S. 14:89.1(A)(2) (aggravated  
20 crime against nature)."

21  
22 AMENDMENT NO. 16

23 On page 5, delete lines 5 and 6 in their entirety and insert the following:

24 "A. Crime against nature is ~~the~~ either of the following:  
25 (1) The unnatural carnal copulation by a human being with another  
26 of"

27 AMENDMENT NO. 17

28 On page 5, line 17, after "blood." delete the remainder of the line, delete lines 18 through 20  
29 in their entirety, and insert the following:

30 "The provisions of this Paragraph shall not apply where one person, not a  
31 resident of this state at the time of the celebration of his marriage, contracted  
32 a marriage lawful at the place of celebration and thereafter removed to this  
33 state."

34 AMENDMENT NO. 18

35 On page 5, delete lines 21 and 22 in their entirety and insert the following:

36 "B.(1) Whoever ~~violates~~ commits the offense of crime against nature  
37 in violation of the provisions of Paragraph (A)(1) of this Section shall be  
38 fined not more than two thousand dollars,"  
39

1 AMENDMENT NO. 19

2 On page 5, delete line 24 in its entirety and insert the following:

3 "2) Whoever ~~violates~~ commits the offense of crime against nature  
 4 in violation of the provisions of Paragraph (A)(1) of this Section"

5 AMENDMENT NO. 20

6 On page 5, delete line 28 in its entirety and insert the following:

7 "(3) Whoever ~~violates~~ commits the offense of crime against nature  
 8 in violation of the provisions of Paragraph (A)(1) of this Section"

9 AMENDMENT NO. 21

10 On page 6, delete line 3 in its entirety and insert "(4) Whoever commits the offense of crime  
 11 against nature in violation of the provisions of Paragraph (A)(2) of this"

12 AMENDMENT NO. 22

13 On page 6, delete line 7 in its entirety and insert "(5) Whoever commits the offense of crime  
 14 against nature in violation of the provisions of Paragraph (A)(2) of this Section."

15 AMENDMENT NO. 23

16 On page 6, delete lines 16 through 29 in their entirety, delete pages 7 and 8 in their entirety,  
 17 on page 9, delete lines 1 through 8 in their entirety, and insert the following:

18 "A. Aggravated crime against nature is ~~crime against nature~~ either  
 19 of the following:

20 (1) A violation of the provisions of R.S. 14:89(A)(1) committed  
 21 under any one or more of the following circumstances:

22 ~~(1)(a)~~ (a) When the victim resists the act to the utmost, but such  
 23 resistance is overcome by force;

24 ~~(2)(b)~~ (b) When the victim is prevented from resisting the act by threats  
 25 of great and immediate bodily harm accompanied by apparent power of  
 26 execution;

27 ~~(3)(c)~~ (c) When the victim is prevented from resisting the act because  
 28 the offender is armed with a dangerous weapon; ~~or,~~

29 ~~(4)(d)~~ (d) When through idiocy, imbecility, or any unsoundness of mind,  
 30 either temporary or permanent, the victim is incapable of giving consent and  
 31 the offender knew or should have known of such incapacity;

32 ~~(5)(e)~~ (e) When the victim is incapable of resisting or of understanding  
 33 the nature of the act, by reason of stupor or abnormal condition of mind  
 34 produced by a narcotic or anesthetic agent, administered by or with the  
 35 privity of the offender; or when he has such incapacity, by reason of a stupor  
 36 or abnormal condition of mind from any cause, and the offender knew or  
 37 should have known of such incapacity; ~~or,~~

38 ~~(6)(f)~~ (f) When the victim is under the age of seventeen years and the  
 39 offender is at least three years older than the victim.

40 (2)(a) The engaging in any prohibited act enumerated in  
 41 Subparagraph (b) of this Paragraph with a person who is under eighteen years  
 42 of age and who is known to the offender to be related to the offender as any  
 43 of the following biological, step, or adoptive relatives: child, grandchild of  
 44 any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew, or  
 45 niece.

46 (b) The following are prohibited acts under this Paragraph:

1           (i) Sexual intercourse, sexual battery, second degree sexual battery,  
 2 carnal knowledge of a juvenile, indecent behavior with juveniles,  
 3 pornography involving juveniles, molestation of a juvenile or a person with  
 4 a physical or mental disability, crime against nature, cruelty to juveniles,  
 5 parent enticing a child into prostitution, or any other involvement of a child  
 6 in sexual activity constituting a crime under the laws of this state.

7           (ii) Any lewd fondling or touching of the person of either the child  
 8 or the offender, done or submitted to with the intent to arouse or to satisfy the  
 9 sexual desires of either the child, the offender, or both.

10          (c) Consent shall not be a defense to prosecution for a violation of  
 11 the provisions of this Paragraph.

12          B. Whoever commits the crime of aggravated crime against nature  
 13 in violation of the provisions of Paragraph (A)(1) of this Section shall be  
 14 imprisoned at hard labor for not less than three nor more than fifteen years,  
 15 such prison sentence to be without benefit of suspension of sentence,  
 16 probation or parole.

17          C.(1) Whoever commits the crime of aggravated crime against nature  
 18 in violation of the provisions of Paragraph (A)(2) of this Section shall be  
 19 fined an amount not to exceed fifty thousand dollars, or imprisoned, with or  
 20 without hard labor, for a term not less than five years nor more than twenty  
 21 years, or both.

22          (2) Whoever commits the crime of aggravated crime against nature  
 23 in violation of the provisions of Paragraph (A)(2) of this Section with a  
 24 victim under the age of thirteen years when the offender is seventeen years  
 25 of age or older shall be punished by imprisonment at hard labor for not less  
 26 than twenty-five years nor more than ninety-nine years. At least twenty-five  
 27 years of the sentence imposed shall be served without benefit of parole,  
 28 probation, or suspension of sentence.

29          (3) Upon completion of the term of imprisonment imposed in  
 30 accordance with Paragraph (2) of this Subsection, the offender shall be  
 31 monitored by the Department of Public Safety and Corrections through the  
 32 use of electronic monitoring equipment for the remainder of his natural life.

33          (4) Unless it is determined by the Department of Public Safety and  
 34 Corrections, pursuant to rules adopted in accordance with the provisions of  
 35 this Subsection, that a sexual offender is unable to pay all or any portion of  
 36 such costs, each sexual offender to be electronically monitored shall pay the  
 37 cost of such monitoring.

38          (5) The costs attributable to the electronic monitoring of an offender  
 39 who has been determined unable to pay shall be borne by the department if,  
 40 and only to, the degree that sufficient funds are made available for such  
 41 purpose whether by appropriation of state funds or from any other source.

42          (6) The Department of Public Safety and Corrections shall develop,  
 43 adopt, and promulgate rules in the manner provided in the Administrative  
 44 Procedure Act that provide for the payment of such costs. Such rules shall  
 45 contain specific guidelines which shall be used to determine the ability of the  
 46 offender to pay the required costs and shall establish the reasonable costs to  
 47 be charged. Such rules may provide for a sliding scale of payment so that an  
 48 offender who is able to pay a portion, but not all, of such costs may be  
 49 required to pay such portion.

50          D.(1) In addition to any sentence imposed under Subsection C of this  
 51 Section, the court shall, after determining the financial resources and future  
 52 ability of the offender to pay, require the offender, if able, to pay the victim's  
 53 reasonable costs of counseling that result from the offense.

54          (2) The amount, method, and time of payment shall be determined  
 55 by the court either by ordering that documentation of the offender's financial  
 56 resources and future ability to pay restitution and of the victim's pecuniary  
 57 loss submitted by the victim be included in the presentence investigation and  
 58 report, or the court may receive evidence of the offender's ability to pay and  
 59 the victim's loss at the time of sentencing.





1 AMENDMENT NO. 42

2 On page 15, line 16, after "as" and before "R.S." change "provided in" to "defined by"

3 AMENDMENT NO. 43

4 On page 15, line 21, after "nature as" and before "R.S. 14:89(A)(2)" change "provided in"  
5 to "defined by"

6 AMENDMENT NO. 44

7 On page 15, line 26, after "nature as" and before "R.S. 14:89(A)(2)" change "provided in"  
8 to "defined by"

9 AMENDMENT NO. 45

10 On page 16, line 9, after "as" and before "R.S. 14:89(A)(2)" change "provided in" to  
11 "defined by"

12 AMENDMENT NO. 46

13 On page 16, line 12, after "Children's Code Articles" delete the remainder of the line, delete  
14 lines 13 and 14 in their entirety, and insert the following:

15 "502(4)(i) and 603(12)(i), R.S. 14:2(B)(40), 78, and 78.1, and R.S.  
16 15:571.3(B)(i) and (j) are hereby repealed in their entirety."

17 AMENDMENT NO. 47

18 On page 16, between lines 14 and 15, insert the following:

19 "Section 8. The Louisiana State Law Institute is hereby directed to  
20 change all references in Louisiana law from "incest" to "crime against  
21 nature" and from "aggravated incest" to "aggravated crime against nature" to  
22 reflect the changes made in this Act."

23 AMENDMENT NO. 48

24 On page 16, at the beginning of line 15, change "Section 8." to "Section 9."