

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."

32 AMENDMENT NO. 9

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

1 "Children's Code Articles 855(B)(7)(f) and (g), 884.1(A)(6) and (7),
2 897(B)(1)(c), and 1015(3)(c) are hereby amended and"

3 AMENDMENT NO. 10

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

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

6 * * *

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

9 * * *

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

21 * * *

22 (f) Aggravated ~~incest~~ crime against nature defined by R.S.
23 14:89.1(A)(2) involving circumstances defined by ~~R.S. 14:78.1~~ R.S. 15:541
24 as an aggravated offense.

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

26 * * *

27 Art. 884.1. Informing the child of sex offender registration and notification
28 requirements; form

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

33 * * *

34 (6) Aggravated ~~incest~~ crime against nature defined by R.S.
35 14:89.1(A)(2) involving circumstances defined by ~~R.S. 14:78.1~~ R.S. 15:541
36 as an aggravated offense.

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

38 * * *

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

40 * * *

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

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

44 * * *

45 (c) Prohibit the child from possessing a firearm or carrying a
46 concealed weapon, if he has been adjudicated for any of the following
47 offenses and probation is not otherwise prohibited: first or second degree
48 murder; manslaughter; aggravated battery; aggravated, forcible, or simple
49 rape; aggravated crime against nature as defined by R.S. 14:89.1(A)(1);
50 aggravated kidnapping; aggravated arson; aggravated or simple burglary;
51 armed or simple robbery; burglary of a pharmacy; burglary of an inhabited
52 dwelling; unauthorized entry of an inhabited dwelling; or any violation of the
53 Uniform Controlled Dangerous Substances Law which is a felony or any
54 crime defined as an attempt to commit one of these enumerated offenses.

55 * * *

1 AMENDMENT NO. 11

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

4 AMENDMENT NO. 12

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

6 AMENDMENT NO. 13

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

8 AMENDMENT NO. 14

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

10 AMENDMENT NO. 15

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

13 "nature).
14 (h) R.S. 14:78.1 (aggravated incest)R.S. 14:89.1(A)(2) (aggravated
15 crime against nature)."

16 AMENDMENT NO. 16

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

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

21 AMENDMENT NO. 17

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

24 "The provisions of this Paragraph shall not apply where one person, not a
25 resident of this state at the time of the celebration of his marriage, contracted
26 a marriage lawful at the place of celebration and thereafter removed to this
27 state."

28 AMENDMENT NO. 18

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

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

33 AMENDMENT NO. 19

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

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

1 AMENDMENT NO. 20

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

3 "3) ~~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. 21

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

8 AMENDMENT NO. 22

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

11 AMENDMENT NO. 23

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

14 "A. Aggravated crime against nature is ~~crime against nature~~ either
 15 of the following:

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

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

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

23 ~~(3)(c)~~ (c) When the victim is prevented from resisting the act because
 24 the offender is armed with a dangerous weapon;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 (2) The amount, method, and time of payment shall be determined
 49 by the court either by ordering that documentation of the offender's financial
 50 resources and future ability to pay restitution and of the victim's pecuniary
 51 loss submitted by the victim be included in the presentence investigation and
 52 report, or the court may receive evidence of the offender's ability to pay and
 53 the victim's loss at the time of sentencing.

54 (3) The court may provide for payment to a victim up to but not in
 55 excess of the pecuniary loss caused by the offense. The offender may assert
 56 any defense that he could raise in a civil action for the loss sought to be
 57 compensated by the restitution order."

1 AMENDMENT NO. 24

2 On page 9, line 9, after "537," delete the remainder of the line and insert "541(2)(j) and (l),
3 (24)(a), and (25)(d), 542(A)(3)(f) and (g),"

4 AMENDMENT NO. 25

5 On page 9, at the beginning of line 10, change "and 571.3(B)(4)(d) and (e)" to "and
6 571.3(B)(3)(p) and (4)(d) and (e)"

7 AMENDMENT NO. 26

8 On page 10, delete line 10 in its entirety and insert asterisks "* * *"

9 AMENDMENT NO. 27

10 On page 10, delete lines 14 through 21 in their entirety and insert the following:

11 (j) Aggravated ~~incest (R.S. 14:78.1)~~ crime against nature as defined
12 by R.S. 14:89.1(A)(2) involving sexual intercourse, second degree sexual
13 battery, oral sexual battery, or when prosecuted under the provisions of R.S.
14 ~~14:78.1(D)(2)~~ 14:89.1(C)(2).

15 * * *

16 (l) Aggravated crime against nature (R.S. 14:89.1(A)(1))."

17 AMENDMENT NO. 28

18 On page 11, between lines 20 and 21, insert the following:

19 "* * *

20 (25) "Sexual offense against a victim who is a minor" means a
21 conviction for the perpetration or attempted perpetration of, or conspiracy to
22 commit, any of the following:

23 * * *

24 (d) Aggravated ~~incest (R.S. 14:78.1)~~ crime against nature as defined
25 by R.S. 14:89.1(A)(2) under the circumstances not listed as those which
26 constitute an "aggravated offense" as defined in this Section."

27 AMENDMENT NO. 29

28 On page 12, delete lines 3 through 6 in their entirety and insert the following:

29 (f) Aggravated ~~incest~~ crime against nature as defined by R.S.
30 14:89.1(A)(2) involving circumstances defined by R.S. 15:541 as an
31 "aggravated offense" (~~R.S. 14:78.1~~).

32 (g) Aggravated crime against nature (R.S. 14:89.1(A)(1))."

33 AMENDMENT NO. 30

34 On page 12, delete line 10 in its entirety and insert "B."

35 AMENDMENT NO. 31

36 On page 12, between lines 11 and 12, insert the following:

37 (3) A person shall not be eligible for diminution of sentence for
38 good behavior if he has been convicted of or pled guilty to, or where
39 adjudication has been deferred or withheld for, a violation of any one of the
40 following offenses:

1 * * *
2 (p) Crime against nature (R.S. 14:89(A)).
3 * * *

4 AMENDMENT NO. 32

5 On page 12, delete lines 18 through 20 in their entirety and insert the following:

6 "(d) ~~incest~~ Crime against nature as defined by R.S. 14:89(A)(2).
7 (e) Aggravated incest crime against nature as defined by R.S.
8 14:89.1(A)(2)."

9 AMENDMENT NO. 33

10 On page 12, line 23, after "(D), and" and before "are" change "1300.13(E)(6)" to
11 "1300.13(E)(introductory paragraph) and (6)"

12 AMENDMENT NO. 34

13 On page 13, line 7, after "nature as" and before "R.S. 14:89(A)(2)" change "provided in" to
14 "defined by"

15 AMENDMENT NO. 35

16 On page 13, line 11, after "nature as" and before "R.S. 14:89(A)(2)" change "provided in"
17 to "defined by"

18 AMENDMENT NO. 36

19 On page 13, line 19, after "nature as" and before "R.S. 14:89(A)(2)" change "provided in"
20 to "defined by"

21 AMENDMENT NO. 37

22 On page 14, line 17, after "nature as" and before "R.S. 14:89(A)(2)" change "provided in"
23 to "defined by"

24 AMENDMENT NO. 38

25 On page 14, at the beginning of line 26, delete "provided in" and insert "defined by"

26 AMENDMENT NO. 39

27 On page 15, at the beginning of line 3, delete "provided in" and insert "defined by"

28 AMENDMENT NO. 40

29 On page 15, line 9, after "rape or" and before "crime" insert "certain acts of"

30 AMENDMENT NO. 41

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

33 AMENDMENT NO. 42

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

1 AMENDMENT NO. 43

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

4 AMENDMENT NO. 44

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

7 AMENDMENT NO. 45

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

10 AMENDMENT NO. 46

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

13 "502(4)(i) and 603(12)(i), R.S. 14:2(B)(40), 78, and 78.1, and R.S.
14 15:571.3(B)(i) and (j) are hereby repealed in their entirety."

15 AMENDMENT NO. 47

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

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

21 AMENDMENT NO. 48

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