

## RÉSUMÉ DIGEST

ACT 256 (SB 117)

2015 Regular Session

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Prior law provided for the crimes of aggravated rape, forcible rape, and simple rape.

New law does all of the following:

- (1) Changes the name of the offense of aggravated rape to first degree rape, the offense of forcible rape to second degree rape, and the offense of simple rape to third degree rape.
- (2) Provides that any reference to the crime of "aggravated rape" is the same as a reference to the crime of "first degree rape", any reference to the crime of "forcible rape" is the same as a reference to the crime of "second degree rape", and any reference to the crime of "simple rape" is the same as a reference to the crime of "third degree rape".
- (3) Amends Children's Code and Title 15 regarding sex offender registration and notification to reflect the change in reference of "aggravated rape" to "first degree rape", of "forcible rape" to "second degree rape", and of "simple rape" to "third degree rape".
- (4) New law does not alleviate any person arrested, convicted, or adjudicated delinquent of prior law aggravated rape, forcible rape, or simple rape prior to the effective date of new law from any requirement, obligation, or consequence imposed by law as a result of that arrest, conviction, or adjudication including but not limited to any requirements regarding the setting of bail, sex offender registration and notification, parental rights, probation, parole, sentencing, or any other requirement, obligation, or consequence imposed by law as a result of that arrest, conviction, or adjudication.
- (5) Provides that any act in violation of the prior law crime of simple rape, forcible rape, or aggravated rape committed on or after Aug. 1, 2015, shall be referred to using terminology provided in new law - "third degree rape", "second degree rape", or "first degree rape", respectively.
- (6) Directs the La. State Law Institute to change any and all references to the crimes of "aggravated rape", "forcible rape", and "simple rape" to reflect the changes made in new law.

Prior law provided that simple rape (referred to as "third degree rape" pursuant to new law) is a rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of a victim because it is committed under certain circumstances including when the female victim submits under the belief that the person committing the act is her husband and such belief is intentionally induced by any artifice, pretense, or concealment practiced by the offender. Prior law provided that whoever commits the crime of simple rape shall be imprisoned, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for up to 25 years.

With regard to simple rape, new law does the following:

- (1) Provides that simple rape is a rape committed when the victim, whether male or female, submits under the belief that the person committing the act is someone known to the victim, other than the offender.
- (2) Provides that simple rape is committed when the offender acts without the consent of the victim.
- (3) Requires the term of imprisonment to be served at hard labor.

Prior law provided that sexual battery is the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, or the touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, when certain circumstances occur including when the act is consensual but the other person, who is not the spouse of the offender, has not yet attained 15 years of age and is at least three years younger than the offender.

New law removes the prior law reference to consensual acts but retains the provision which provides that sexual battery can occur when the victim has not yet attained the age of 15 and is at least three years younger than the offender. Further adds that the prohibited touching can occur directly or through clothing.

New law creates the crime of misdemeanor sexual battery and does all of the following:

- (1) Defines the crime as the intentional touching of the breasts or buttocks of the victim by the offender, or of the offender by the victim, using any instrumentality or any part of the body of the offender, directly or through clothing, when the offender acts without the consent of the victim.
- (2) Provides penalties of a fine up to \$1,000, imprisonment for up to six months, or both.
- (3) Provides that the offender shall not be eligible to have his conviction set aside or prosecution dismissed pursuant to prior law (C.Cr.P. Art. 894).
- (4) Provides that the offender shall not be subject to any provisions of law that are applicable to sex offenders, including but not limited to any provision that requires registration of the offender or notice to the public.

Effective August 1, 2015.

(Amends R.S. 14:42(A)(intro para) and(D)(1), 42.1, 43, and 43.1(A), R.S. 15:541(2)(a), (b), and (c) and (24)(a) and 542(A)(2) and (3)(a) and (b), and Ch.C.Art. 884.1(A)(1) and (2); adds R.S. 14:42(E) and 43.1.1)