

## RÉSUMÉ DIGEST

ACT 173 (SB 64)

2022 Regular Session

Connick

Prior law provided for a nonexhaustive list of crimes of violence, the definition of rape, and the crimes of first degree/aggravated rape, second degree sexual battery, oral sexual battery, second degree kidnapping, aggravated kidnapping of a child, and sexual battery of persons with infirmities.

New law does the following:

- (1) Adds the prior law crimes of aggravated kidnapping of a child, molestation, and sexual battery of persons with infirmities to the list of crimes of violence.
- (2) Defines rape to include foreign object penetration.
- (3) Defines first degree/aggravated rape to include rapes committed during the course of burglary crimes.
- (4) Replaces the definitions of "physical infirmity" and "mental infirmity" relative to first degree/aggravated rape with more inclusive language to better protect victims with disabilities.
- (5) Defines the term "sexually abused" relative to second degree kidnapping and aggravated kidnapping of a child to mean that the victim was subjected to any offense defined as a sex offense by prior law.
- (6) Aligns second degree sexual battery, oral sexual battery, and sexual battery of persons with infirmities with other provisions of prior law.

New law otherwise retains prior law.

Prior law provided for responsive verdicts for certain prior law sex offenses.

New law retains prior law and adds responsive verdicts for aggravated kidnapping of a child when the victim is sexually abused and second degree kidnapping when the victim is sexually abused.

New law makes the "under 13" variants of sexual battery, molestation, and indecent behavior with a juvenile responsive to first degree/aggravated rape of a child under 13.

Prior law provided that when an accused is charged with certain sex offenses, the manner and style of the victim's attire is inadmissible to show that the victim encouraged or consented to the offense, but may be introduced to establish the presence or absence of the elements of the offense and the proof of its occurrence. Prior law further provided that the prior law rules of admissibility also apply to civil actions brought by the victim that are alleged to arise from sex offenses committed by the defendant, whether or not convicted of these crimes.

New law updates the evidentiary rule that a sexual assault victim's attire is generally inadmissible in a proceeding to broadly include all crimes of sexual assault or a crime defined as a sex offense by prior law.

Effective August 1, 2022.

(Amends R.S. 14:2(B)(8), (29), and (40), 41(B), 42(A)(6) and (C), 43.2(A)(1) and (2), 43.3(A)(1), 44.1(A)(3), 44.2(B)(2), 93.5(A)(intro para) and (B), C.Cr.P. Art. 814(A)(12), and C.E. Art. 412.1; adds R.S. 14:41(D) and 42(A)(7) and C.Cr.P. Art. 814(A)(69) and (70))