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 DIGEST
 

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SB 117 Reengrossed

2015 Regular Session

Gary Smith

Present law provides for the crimes of aggravated rape, forcible rape, and simple rape.

Proposed 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 provisions in the Children's Code and Title 15 regarding sex offender registration and notification to reflect the proposed law 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) Provides that nothing in proposed law alleviates any person arrested, convicted, or adjudicated delinquent of present law aggravated rape, forcible rape, or simple rape prior to the effective date of proposed 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 present 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 proposed law - "third degree rape", "second degree rape", or "first degree rape", respectively.
- (6) Directs the La. Louisiana State Law Institute to change any and all references to the crimes of "aggravated rape", "forcible rape", and "simple rape" in present law to reflect the changes made in proposed law.

Present law provides that simple rape (referred to as "third degree rape" pursuant to proposed 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. Present law provides 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, proposed law does all of the following:

- (1) Amends present law to provide 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) Expands present law to provide that simple rape is committed when the offender acts without the consent of the victim.
- (3) Amends present law penalties to require the term of imprisonment to be served at hard labor.

Present law provides 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 fifteen years of age and is at least three years younger than the offender.

Proposed law amends this provision of present law to remove the 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.

Proposed 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 present 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.

(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)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

- 1. Adds that third degree rape under proposed law is committed when the offender acts without the consent of the victim.
- 2. Changes a possible penalty for third degree rape from imprisonment with or without hard labor to imprisonment at hard labor.

Senate Floor Amendments to engrossed bill

- 1. Revises present law regarding registration of sex offenders to include proposed law.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the reengrossed bill:

- 1. Add provisions which provide 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".

2. Add a provision which provides that nothing in proposed law alleviates any person arrested, convicted, or adjudicated delinquent of present law aggravated rape, forcible rape, or simple rape prior to the effective date of proposed law from any requirement, obligation, or consequence imposed by law as a result of that arrest, conviction, or adjudication.
3. Add a requirement that any act in violation of any present law rape statute committed on or after Aug. 1, 2015, shall be referred to using the terminology provided in proposed law - first degree, second degree, or third degree rape.
4. Amend a provision in the Children's Code relative to sex offender registration and notification to reflect the change in terminology of rape statutes as provided in proposed law.
5. Make technical changes.