

2015 Regular Session

HOUSE BILL NO. 139

BY REPRESENTATIVE HODGES AND SENATORS DORSEY-COLOMB AND
MORRELL

1 AN ACT

2 To amend and reenact R.S. 13:2106(B), R.S. 14:2(B)(9), (10), and (11), 30(A)(1),
3 30.1(A)(2), 32.6(A)(2), 42(A)(introductory paragraph) and (D)(1),
4 42.1(A)(introductory paragraph) and (B), 43(A)(introductory paragraph) and (B),
5 43.6(A) and (B)(1), 50.2, and 107.2(A), R.S. 15:302, 469.1, 541(2)(a), (b), and (c)
6 and (24)(a), 542(A)(2) and (3)(a) and (b), 571.3(B)(3)(b), (c), and (d),
7 574.4(D)(1)(h), 708(C), 711(G)(1), 811(C) and (E), 831(D), 832(C)(2), 833(B)(3),
8 833.2(B), 893.1(1), and 1111(I)(1), R.S. 40:1300.13(E)(6), R.S. 48:261(E)(2), Code
9 of Criminal Procedure Articles 336.1, 465(A)(39) and (40), 571, 814(A)(8), (8.1),
10 (9), (10), (11), (12), and (13), 890.1(D)(9), (10), and (11), 893.3(E)(1)(b), and
11 905.4(A)(1) and (3), Code of Evidence Article 412.1, and Children's Code Articles
12 305(A)(1)(introductory paragraph) and (b), (B)(1)(b) and (2)(f) and (g), 855(B)(7)(a)
13 and (b), 857(A)(4) and (8) and (C), 858(B), 879(B)(2), 884.1(A)(1) and (2),
14 897(B)(1)(c), 897.1(A), and 901(E) and to enact R.S. 14:42(E), 42.1(C), and 43(C),
15 relative to rape; to provide relative to the crimes of aggravated rape, forcible rape,
16 and simple rape; to change all references of "aggravated rape" to "first degree rape";
17 to change all references of "forcible rape" to "second degree rape"; to change all
18 references of "simple rape" to "third degree rape"; to provide relative to the effects
19 of these changes; and to provide for related matters.

20 Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S. 14:2(B)(9), (10), and (11), 30(A)(1), 30.1(A)(2), 32.6(A)(2),
2 42(A)(introductory paragraph) and (D)(1), 42.1(A)(introductory paragraph) and (B),
3 43(A)(introductory paragraph) and (B), 43.6(A) and (B)(1), 50.2, and 107.2(A) are hereby
4 amended and reenacted and R.S. 14:42(E), 42.1(C), and 43(C) are hereby enacted to read
5 as follows:

6 §2. Definitions

7 * * *

8 B. In this Code, "crime of violence" means an offense that has, as an
9 element, the use, attempted use, or threatened use of physical force against the
10 person or property of another, and that, by its very nature, involves a substantial risk
11 that physical force against the person or property of another may be used in the
12 course of committing the offense or an offense that involves the possession or use
13 of a dangerous weapon. The following enumerated offenses and attempts to commit
14 any of them are included as "crimes of violence":

15 * * *

16 (9) Aggravated or first degree rape.

17 (10) Forcible or second degree rape.

18 (11) Simple or third degree rape.

19 * * *

20 §30. First degree murder

21 A. First degree murder is the killing of a human being:

22 (1) When the offender has specific intent to kill or to inflict great bodily
23 harm and is engaged in the perpetration or attempted perpetration of aggravated
24 kidnapping, second degree kidnapping, aggravated escape, aggravated arson,
25 aggravated or first degree rape, forcible or second degree rape, aggravated burglary,
26 armed robbery, assault by drive-by shooting, first degree robbery, second degree
27 robbery, simple robbery, terrorism, cruelty to juveniles, or second degree cruelty to
28 juveniles.

29 * * *

1 §30.1. Second degree murder

2 A. Second degree murder is the killing of a human being:

3 * * *

4 (2) When the offender is engaged in the perpetration or attempted
5 perpetration of aggravated or first degree rape, forcible or second degree rape,
6 aggravated arson, aggravated burglary, aggravated kidnapping, second degree
7 kidnapping, aggravated escape, assault by drive-by shooting, armed robbery, first
8 degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second
9 degree cruelty to juveniles, or terrorism, even though he has no intent to kill or to
10 inflict great bodily harm.

11 * * *

12 §32.6. First degree feticide

13 A. First degree feticide is:

14 * * *

15 (2) The killing of an unborn child when the offender is engaged in the
16 perpetration or attempted perpetration of aggravated or first degree rape, forcible or
17 second degree rape, aggravated arson, aggravated burglary, aggravated kidnapping,
18 second degree kidnapping, assault by drive-by shooting, aggravated escape, armed
19 robbery, first degree robbery, second degree robbery, cruelty to juveniles, second
20 degree cruelty to juveniles, terrorism, or simple robbery, even though he has no
21 intent to kill or inflict great bodily harm.

22 * * *

23 §42. ~~Aggravated~~ First degree rape

24 A. ~~Aggravated~~ First degree rape is a rape committed upon a person sixty-five
25 years of age or older or where the anal, oral, or vaginal sexual intercourse is deemed
26 to be without lawful consent of the victim because it is committed under any one or
27 more of the following circumstances:

28 * * *

1 D.(1) Whoever commits the crime of ~~aggravated~~ first degree rape shall be
 2 punished by life imprisonment at hard labor without benefit of parole, probation, or
 3 suspension of sentence.

4 * * *

5 E. For all purposes, "aggravated rape" and "first degree rape" mean the
 6 offense defined by the provisions of this Section and any reference to the crime of
 7 aggravated rape is the same as a reference to the crime of first degree rape. Any act
 8 in violation of the provisions of this Section committed on or after August 1, 2015,
 9 shall be referred to as "first degree rape".

10 §42.1. ~~Forcible~~ Second degree rape

11 A. ~~Forcible~~ Second degree rape is rape committed when the anal, oral, or
 12 vaginal sexual intercourse is deemed to be without the lawful consent of the victim
 13 because it is committed under any one or more of the following circumstances:

14 * * *

15 B. Whoever commits the crime of ~~forcible~~ second degree rape shall be
 16 imprisoned at hard labor for not less than five nor more than forty years. At least
 17 two years of the sentence imposed shall be without benefit of probation, parole, or
 18 suspension of sentence.

19 C. For all purposes, "forcible rape" and "second degree rape" mean the
 20 offense defined by the provisions of this Section and any reference to the crime of
 21 forcible rape is the same as a reference to the crime of second degree rape. Any act
 22 in violation of the provisions of this Section committed on or after August 1, 2015,
 23 shall be referred to as "second degree rape".

24 §43. ~~Simple~~ Third degree rape

25 A. ~~Simple~~ Third degree rape is a rape committed when the anal, oral, or
 26 vaginal sexual intercourse is deemed to be without the lawful consent of a victim
 27 because it is committed under any one or more of the following circumstances:

28 * * *

1 B. Whoever commits the crime of ~~simple~~ third degree rape shall be
2 imprisoned, with or without hard labor, without benefit of parole, probation, or
3 suspension of sentence, for not more than twenty-five years.

4 C. For all purposes, "simple rape" and "third degree rape" mean the offense
5 defined by the provisions of this Section and any reference to the crime of simple
6 rape is the same as a reference to the crime of third degree rape. Any act in violation
7 of the provisions of this Section committed on or after August 1, 2015, shall be
8 referred to as "third degree rape".

9 * * *

10 §43.6. Administration of medroxyprogesterone acetate (MPA) to certain sex
11 offenders

12 A. Notwithstanding any other provision of law to the contrary, upon a first
13 conviction of R.S. 14:42 (aggravated or first degree rape), R.S. 14:42.1 (forcible or
14 second degree rape), R.S. 14:43.2 (second degree sexual battery), R.S. 14:81.2(D)(1)
15 (molestation of a juvenile when the victim is under the age of thirteen), and R.S.
16 14:89.1 (aggravated crime against nature), the court may sentence the offender to be
17 treated with medroxyprogesterone acetate (MPA), according to a schedule of
18 administration monitored by the Department of Public Safety and Corrections.

19 B.(1) Notwithstanding any other provision of law to the contrary, upon a
20 second or subsequent conviction of R.S. 14:42 (aggravated or first degree rape) , R.S.
21 14:42.1 (forcible or second degree rape), R.S. 14:43.2 (second degree sexual
22 battery), R.S. 14:81.2(D)(1) (molestation of a juvenile when the victim is under the
23 age of thirteen), and R.S. 14:89.1 (aggravated crime against nature), the court shall
24 sentence the offender to be treated with medroxyprogesterone acetate (MPA)
25 according to a schedule of administration monitored by the Department of Public
26 Safety and Corrections.

27 * * *

1 §50.2. Perpetration or attempted perpetration of certain crimes of violence against
2 a victim sixty-five years of age or older

3 The court in its discretion may sentence, in addition to any other penalty
4 provided by law, any person who is convicted of a crime of violence or of an attempt
5 to commit any of the crimes as defined in R.S. 14:2(B) with the exception of first
6 degree murder (R.S. 14:30), second degree murder (R.S. 14:30.1), aggravated assault
7 (R.S. 14:37), aggravated or first degree rape (R.S. 14:42), and aggravated kidnapping
8 (R.S. 14:44); to an additional three years' imprisonment when the victim of such
9 crime is sixty-five years of age or older at the time the crime is committed.

10 * * *

11 §107.2. Hate crimes

12 A. It shall be unlawful for any person to select the victim of the following
13 offenses against person and property because of actual or perceived race, age,
14 gender, religion, color, creed, disability, sexual orientation, national origin, or
15 ancestry of that person or the owner or occupant of that property or because of actual
16 or perceived membership or service in, or employment with, an organization: first
17 or second degree murder; manslaughter; battery; aggravated battery; second degree
18 battery; aggravated assault with a firearm; terrorizing; mingling harmful substances;
19 simple or third degree rape, forcible or second degree rape, or aggravated or first
20 degree rape; sexual battery, second degree sexual battery; oral sexual battery; carnal
21 knowledge of a juvenile; indecent behavior with juveniles; molestation of a juvenile
22 or a person with a physical or mental disability; simple, second degree, or aggravated
23 kidnapping; simple or aggravated arson; communicating of false information of
24 planned arson; simple or aggravated criminal damage to property; contamination of
25 water supplies; simple or aggravated burglary; criminal trespass; simple, first degree,
26 or armed robbery; purse snatching; extortion; theft; desecration of graves;
27 institutional vandalism; or assault by drive-by shooting.

28 * * *

1 Section 2. R.S. 15:302, 469.1, 541(2)(a), (b), and (c) and (24)(a), 542(A)(2) and
 2 (3)(a) and (b), 571.3(B)(3)(b), (c), and (d), 574.4(D)(1)(h), 708(C), 711(G)(1), 811(C) and
 3 (E), 831(D), 832(C)(2), 833(B)(3), 833.2(B), 893.1(1), and 1111(I)(1) are hereby amended
 4 and reenacted to read as follows:

5 §302. Sentences to prison districts; persons excluded

6 Whenever prison districts have been established the rules of sentencing set
 7 forth below shall be followed:

8 ~~A.~~(1) The following persons shall be sentenced to prison districts:

9 ~~(1)~~(a) All persons convicted of misdemeanors and sentenced to
 10 imprisonment by any state court within the judicial district.

11 ~~(2)~~(b) All persons convicted of violations of state or parish laws by any
 12 municipal court within the judicial district.

13 ~~B.~~(2) The following persons may be sentenced to prison districts:

14 ~~(1)~~(a) Persons convicted of felonies by any state court within the judicial
 15 district notwithstanding the conviction ordinarily requires imprisonment in the
 16 penitentiary.

17 ~~(2)~~(b) Persons convicted of violations of municipal ordinances and sentenced
 18 to imprisonment by the municipal courts of those municipalities which have
 19 contracted with the governing authority of the prison district for the keeping of such
 20 persons.

21 ~~C.~~(3) The following persons shall not be imprisoned in any prison district:

22 ~~(1)~~(a) Persons sentenced to life imprisonment.

23 ~~(2)~~(b) Persons convicted of treason, aggravated or ~~simple~~ first degree rape,
 24 simple or third degree rape, aggravated or simple arson, or aggravated or simple
 25 kidnapping.

26 ~~(3)~~(c) Bank and homestead officials convicted of theft by reason of misusing
 27 funds of depositors or other funds entrusted to them.

28 ~~(4)~~(d) Notaries public who are defaulters.

29 ~~(5)~~(e) Second or third offenders.

~~(6)~~(f) Persons whose sentences exceed five years.

* * *

§469.1. Receipt of testimony from victims of certain crimes who are fifteen years of age or younger; closed session of court or in chambers; procedure

In cases of simple or third degree rape, attempted simple or third degree rape, aggravated or first degree rape, attempted aggravated or first degree rape, forcible or second degree rape, attempted forcible or second degree rape, or carnal knowledge of a juvenile in which the victim is a child of fifteen years of age or younger, the court, upon its own motion or that of the defendant or state, may order that the testimony of such victim be heard either in closed session of court or in the judge's chambers, in the presence of the judge or jury, the defendant, counsel for the defendant, the family of the defendant, the parents or parent of the victim, the attorney for the state, a reasonable but limited number of members of the public which the court may allow in its discretion under these circumstances, and any other party which the court determines has a valid interest in the proceedings.

* * *

§541. Definitions

For the purposes of this Chapter, the definitions of terms in this Section shall apply:

* * *

(2) "Aggravated offense" means a conviction for the perpetration or attempted perpetration of, or conspiracy to commit, any of the following:

(a)(i) Aggravated rape (R.S. 14:42), which occurred prior to August 1, 2015, and which shall include convictions for the perpetration or attempted perpetration of, or conspiracy to commit, aggravated oral sexual battery (formerly R.S. 14:43.4, Repealed by Acts 2001, No. 301, §2) occurring prior to August 15, 2001.

(ii) First degree rape (R.S. 14:42) which occurred on or after August 1, 2015.

(b)(i) Forcible rape (R.S. 14:42.1) which occurred prior to August 1, 2015.

(ii) Second degree rape (R.S. 14:42.1) which occurred on or after August 1, 2015.

1 (c)(i) Simple rape under the provisions of R.S. 14:43(A)(1) and (2) which
 2 occurred prior to August 1, 2015.

3 (ii) Third degree rape under the provisions of R.S. 14:43(A)(1) and (2) which
 4 occurred on or after August 1, 2015.

5 * * *

6 (24)(a) "Sex offense" means deferred adjudication, adjudication withheld,
 7 or conviction for the perpetration or attempted perpetration of or conspiracy to
 8 commit human trafficking when prosecuted under the provisions of R.S.
 9 14:46.2(B)(2), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:89
 10 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S.
 11 14:89.2(B)(3) (crime against nature by solicitation), R.S. 14:80 (felony carnal
 12 knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1
 13 (pornography involving juveniles), R.S. 14:81.2 (molestation of a juvenile or a
 14 person with a physical or mental disability), R.S. 14:81.3 (computer-aided
 15 solicitation of a minor), R.S. 14:81.4 (prohibited sexual conduct between an educator
 16 and student), R.S. 14:82.1 (prostitution; persons under eighteen), R.S. 14:82.2(C)(4)
 17 and (5) (purchase of commercial sexual activity), R.S. 14:92(A)(7) (contributing to
 18 the delinquency of juveniles), R.S. 14:93.5 (sexual battery of ~~the infirm~~ persons with
 19 infirmities), R.S. 14:106(A)(5) (obscenity by solicitation of a person under the age
 20 of seventeen), R.S. 14:283 (video voyeurism), R.S. 14:41 (rape), R.S. 14:42
 21 (aggravated or first degree rape), R.S. 14:42.1 (forcible or second degree rape), R.S.
 22 14:43 (simple or third degree rape), R.S. 14:43.1 (sexual battery), R.S. 14:43.2
 23 (second degree sexual battery), R.S. 14:43.3 (oral sexual battery), R.S. 14:43.5
 24 (intentional exposure to AIDS virus), or a second or subsequent conviction of R.S.
 25 14:283.1 (voyeurism), committed on or after June 18, 1992, or committed prior to
 26 June 18, 1992, if the person, as a result of the offense, is under the custody of the
 27 Department of Public Safety and Corrections on or after June 18, 1992. A conviction
 28 for any offense provided in this definition includes a conviction for the offense under
 29 the laws of another state, or military, territorial, foreign, tribal, or federal law which
 30 is equivalent to an offense provided for in this Chapter, unless the tribal court or

1 foreign conviction was not obtained with sufficient safeguards for fundamental
2 fairness and due process for the accused as provided by the federal guidelines
3 adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

4 * * *

5 §542. Registration of sex offenders and child predators

6 A. The following persons shall be required to register and provide
7 notification as a sex offender or child predator in accordance with the provisions of
8 this Chapter:

9 * * *

10 (2) Any juvenile who has pled guilty or has been convicted of a sex offense
11 or second degree kidnapping as provided for in Children's Code Article 305 or 857,
12 with the exception of simple or third degree rape but including any conviction for an
13 offense under the laws of another state, or military, territorial, foreign, tribal, or
14 federal law which is equivalent to the offenses listed herein for which a juvenile
15 would have to register, ~~and~~ .

16 (3) Any juvenile, who has attained the age of fourteen years at the time of
17 commission of the offense, who has been adjudicated delinquent based upon the
18 perpetration, attempted perpetration, or conspiracy to commit any of the following
19 offenses:

20 (a) Aggravated or first degree rape (R.S. 14:42), which shall include those
21 that have been adjudicated delinquent based upon the perpetration, attempted
22 perpetration, or conspiracy to commit aggravated oral sexual battery (formerly R.S.
23 14:43.4, Repealed by Acts 2001, No. 301, §2) occurring prior to August 15, 2001.

24 (b) Forcible or second degree rape (R.S. 14:42.1).

25 * * *

26 §571.3. Diminution of sentence for good behavior

27 * * *

28 B.

29 * * *

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

4 * * *

5 (b) Aggravated or first degree rape (R.S. 14:42).

6 (c) Forcible or second degree rape (R.S. 14:42.1).

7 (d) Simple or third degree rape (R.S. 14:43).

8 * * *

9 §574.4. Parole; eligibility

10 * * *

11 D.(1) Notwithstanding any provision of law to the contrary, any person
12 serving a sentence of life imprisonment who was under the age of eighteen years at
13 the time of the commission of the offense, except for a person serving a life sentence
14 for a conviction of first degree murder (R.S. 14:30) or second degree murder (R.S.
15 14:30.1), shall be eligible for parole consideration pursuant to the provisions of this
16 Subsection if all of the following conditions have been met:

17 * * *

18 (h) If the offender was convicted of aggravated or first degree rape, he shall
19 be designated a sex offender and upon release shall comply with all sex offender
20 registration and notification provisions as required by law.

21 * * *

22 §708. Labor by prisoners permitted; workday release program; indemnification

23 * * *

24 C. This Section shall not apply to ~~criminals~~ persons convicted of crimes of
25 first or second degree murder, attempted first or second degree murder, aggravated
26 or first degree rape, attempted aggravated or first degree rape, forcible or second
27 degree rape, aggravated kidnapping, aggravated arson, armed robbery, or attempted
28 armed robbery, or persons sentenced as habitual offenders under R.S. 15:529.1,
29 except during the last six months of their terms.

30 * * *

1 §711. Work release program

2 * * *

3 G.(1) Any inmate who has been convicted of forcible or second degree rape
4 (R.S. 14:42.1), aggravated arson (R.S. 14:51), armed robbery (R.S. 14:64), attempted
5 murder (R.S. 14:27 and 29), attempted armed robbery (R.S. 14:27 and 64), and
6 persons sentenced as habitual offenders under R.S. 15:529.1 shall be eligible to
7 participate in a work release program during the last six months of their terms.
8 Notwithstanding the provisions of this Section and unless the inmate is eligible at an
9 earlier date, those inmates who have served a minimum of fifteen years in the
10 custody of the department or the sheriff for those crimes enumerated in this Section,
11 shall be eligible to participate in a work release program during the last twelve
12 months of their term.

13 * * *

14 §811. Inmate contact with persons outside of parish or multiparish prison;
15 temporary release or furlough

16 * * *

17 C. An inmate sentenced to the Department of Public Safety and Corrections
18 who is in the custody of the sheriff shall not be eligible for a furlough unless that
19 inmate is in compliance with the Department of Public Safety and Corrections
20 standards for such a furlough.

21 * * *

22 E. Except in cases of serious illness or death of a member of the inmate's
23 family, or for an interview of the inmate by a prospective employer in which case the
24 inmate may be released only in security escort with Department of Public Safety and
25 Corrections authorized personnel, any inmate who has been convicted of first degree
26 murder (R.S. 14:30), second degree murder (R.S. 14:30.1), aggravated or first degree
27 rape (R.S. 14:42), attempted aggravated or first degree rape (R.S. 14:27, ~~14:~~ and 42),
28 forcible or second degree rape (R.S. 14:42.1), aggravated kidnapping (R.S. 14:44),
29 aggravated arson (R.S. 14:51), armed robbery (R.S. 14:64), attempted murder (R.S.
30 14:27, ~~14:~~ and 29), attempted armed robbery (R.S. 14:27, ~~14:~~ and 64), producing,

1 manufacturing, distributing, or dispensing or possession with intent to produce,
 2 manufacture, distribute, or dispense a controlled dangerous substance classified in
 3 Schedule I or Schedule II of R.S. 40:964, and persons sentenced as habitual
 4 offenders under R.S. 15:529.1₂ shall be ineligible for temporary release or furloughs
 5 as provided for herein, except during the last six months of their terms.

6 * * *

7 §831. Medical care of inmates; testing

8 * * *

9 D. For purposes of this Section "inmate" shall mean an individual who has
 10 been committed to the department for confinement after final sentence. For purposes
 11 of the prohibition against the use of state general or dedicated funds for organ
 12 transplants, "inmate" shall mean an individual who has been committed to the
 13 department for confinement for the crime of first or second degree murder, or the
 14 crime of aggravated or first degree rape and has exhausted all state and federal
 15 appellate and post conviction and relief remedies.

16 §832. Work by inmates; allowance

17 * * *

18 C. The department may enter into contractual agreements for the use of
 19 inmate labor by any department, board, commission, or agency of this state
 20 responsible for the conservation of natural resources or the construction and
 21 maintenance of public works, subject to the following restrictions:

22 * * *

23 (2) No inmate shall be assigned to maintenance work at public facilities
 24 outside the department in accordance with this Section when such work requires
 25 housing the inmate in a parish prison or other local housing facility and the inmate
 26 has been convicted of first or second degree murder, attempted first or second degree
 27 murder, aggravated or first degree rape, attempted aggravated or first degree rape,
 28 forcible or second degree rape, aggravated kidnapping, aggravated arson, armed

1 robbery, attempted armed robbery, or the inmate has been sentenced as an habitual
2 offender under R.S. 15:529.1, except during the last six months of his term.

3 * * *

4 §833. Inmate contact with persons outside institution; temporary release

5 * * *

6 B.

7 * * *

8 (3) No inmate serving a sentence for conviction of first degree murder (R.S.
9 14:30), second degree murder (R.S. 14:30.1), attempted murder (R.S. 14:27 and 29),
10 aggravated or first degree rape (R.S. 14:42), attempted aggravated or first degree
11 rape (R.S. 14:27 and 42), forcible or second degree rape (R.S. 14:42.1), aggravated
12 kidnapping (R.S. 14:44), aggravated arson (R.S. 14:51), armed robbery (R.S. 14:64),
13 attempted armed robbery (R.S. 14:27 and 64), or producing, manufacturing,
14 distributing, or dispensing or possession with intent to produce, manufacture,
15 distribute, or dispense a controlled dangerous substance classified in Schedule I or
16 II of R.S. 40:964, nor any inmate sentenced as a habitual offender under R.S.
17 15:529.1 shall be released from the institution to which he is assigned except under
18 security escort and then only in the following circumstances: treatment for serious
19 illness; visits with dying family members; funerals of family members; participation
20 in programs at other correctional institutions; speaking assignments; work details;
21 court appearances; participation in charity boxing matches; performances of any
22 organized vocal or instrumental group at any civic or charitable function; or religious
23 services.

24 * * *

25 §833.2. Temporary release of inmate for limited purposes

26 * * *

27 B. Notwithstanding any other provision of law to the contrary, the secretary
28 may authorize the temporary release of any inmate, except an inmate sentenced to
29 death, serving a sentence for conviction of first degree murder (R.S. 14:30), second
30 degree murder (R.S. 14:30.1), attempted murder (R.S. 14:27 and 29), aggravated or

1 first degree rape (R.S. 14:42), attempted aggravated or first degree rape (R.S. 14:27
 2 and 42), forcible or second degree rape (R.S. 14:42.1), aggravated kidnapping (R.S.
 3 14:44), aggravated arson (R.S. 14:51), armed robbery (R.S. 14:64), attempted armed
 4 robbery (R.S. 14:27 and 64), or producing, manufacturing, distributing, or dispensing
 5 or possession with intent to produce, manufacture, distribute, or dispense a controlled
 6 dangerous substance classified in Schedule I or II of R.S. 40:964 or any inmate
 7 sentenced as a habitual offender under R.S. 15:529.1, when that inmate is confined
 8 to an acute care hospital or nursing home with a condition that totally prevents
 9 mobility, including but not limited to prolonged coma or mechanical ventilation.

* * *

§893.1. Inmates who may not be assigned to J. Levy Dabadie Correctional Center

12 The Department of Public Safety and Corrections, corrections services, shall
 13 not assign any inmate included in the categories listed below to serve any portion of
 14 his term at the correctional institution at J. Levy Dabadie Correctional Center:

15 (1) Inmates who have been convicted of first or second degree murder,
 16 aggravated or first degree rape, aggravated kidnapping, armed robbery, aggravated
 17 arson, or a sex offense as defined in R.S. 15:541.

* * *

§1111. Work release program

* * *

21 I.(1) Any inmate who has been convicted of forcible or second degree rape
 22 (R.S. 14:42.1), aggravated arson (R.S. 14:51), armed robbery (R.S. 14:64), attempted
 23 murder (R.S. 14:27 and 29), or attempted armed robbery (R.S. 14:27 and 64), shall
 24 be eligible to participate in a work release program during the last six months of his
 25 term. Any person sentenced as a habitual offender pursuant to R.S. 15:529.1 shall
 26 be eligible to participate in a work release program during the last year of his term
 27 if the offender has obtained a low-risk level designation determined by a validated
 28 risk assessment instrument approved by the secretary of the Department of Public

1 Safety and Corrections. Notwithstanding the provisions of this Section and unless
2 the inmate is eligible at an earlier date, those inmates who have served a minimum
3 of fifteen years in the custody of the department for those crimes enumerated in this
4 Section shall be eligible to participate in a work release program during the last
5 twelve months of their terms.

6 * * *

7 Section 3. R.S. 13:2106(B) is hereby amended and reenacted to read as follows:

8 §2106. Particular courts; nonrefundable fee; assessment and disposition

9 * * *

10 B. In each criminal proceeding, involving family violence as defined in R.S.
11 46:2121.1, simple or third degree rape, forcible or second degree rape, aggravated
12 or first degree rape, aggravated assault, aggravated battery, simple battery,
13 aggravated kidnapping, simple kidnapping, or false imprisonment, or any attempt to
14 commit the aforementioned crimes, a nonrefundable fee of twenty-five dollars shall
15 be collected by the clerk of the city court of Slidell and the clerk of the Twenty-
16 Second Judicial District Court, St. Tammany Parish, which shall be in addition to all
17 other fines, costs, or forfeitures lawfully imposed. If the defendant is found guilty
18 and placed on probation, the court shall, as a condition of probation require the
19 defendant to pay the additional fee at the time the defendant is placed on probation.
20 If the sentence of the court is incarceration, the fee shall be collected at the time of
21 imposition of sentence.

22 * * *

23 Section 4. R.S. 40:1300.13(E)(6) is hereby amended and reenacted to read as
24 follows:

25 §1300.13. HIV-related testing; consent; exceptions

26 * * *

27 E. The provisions of Subsections A through D of this Section shall not apply
28 to the performance of an HIV-related test:

29 * * *

1 (6) On any person who has been arrested, indicted, or convicted for the
 2 crimes of aggravated or first degree rape, forcible or second degree rape, simple or
 3 third degree rape, or crime against nature as defined by R.S. 14:89(A)(2) when
 4 required by a court to undergo an HIV-related test.

5 Section 5. R.S. 48:261(E)(2) is hereby amended and reenacted to read as follows:

6 §261. Maintenance work by department employees; exceptions

7 * * *

8 E. In no event shall this Section be construed to permit the use of prisoners
 9 who:

10 * * *

11 (2) Have been convicted one or more times of the crimes of aggravated or
 12 first degree rape, homicide in the first or second degree, armed robbery, kidnapping,
 13 aggravated escape, or any attempt to commit any of the above enumerated offenses.

14 * * *

15 Section 6. Code of Criminal Procedure Articles 336.1, 465(A)(39) and (40), 571,
 16 814(A)(8), (8.1), (9), (10), (11), (12), and (13), 890.1(D)(9), (10), and (11), 893.3(E)(1)(b),
 17 and 905.4(A)(1) and (3) are hereby amended and reenacted to read as follows:

18 Art. 336.1. Conditions of release on bail; aggravated or first degree rape

19 A. In making a determination relative to the granting of release or the
 20 conditions of such release of a defendant who is alleged to have committed the
 21 offense of aggravated or first degree rape as provided in R.S. 14:42(A)(4), the court
 22 shall take into consideration the previous criminal record of the defendant; any
 23 potential threat or danger the defendant poses to the victim, the family of the victim,
 24 or to any member of the public, especially children; and any statistical evidence
 25 prepared by the United States Department of Justice relative to the likelihood of such
 26 defendant or any person in general who has raped or molested victims under the age
 27 of thirteen years to commit sexual offenses against a victim under the age of thirteen
 28 in the future.

1 B. Any person who is indicted for the crime of aggravated or first degree
 2 rape as provided in R.S. 14:42 shall, as a condition of bail, be required to wear an
 3 electronic monitoring device and to be placed under active electronic monitoring.
 4 The conditions of the electronic monitoring shall be determined by the court, and
 5 may include but not be limited to limitation of the defendant's activities outside of
 6 the home and curfew. The defendant may be required to pay a reasonable
 7 supervision fee to the supervising agency to defray the cost of the required electronic
 8 monitoring. A violation of the conditions of bail may be punishable by the forfeiture
 9 of bail and the issuance of a bench warrant for the defendant's arrest or remanding
 10 the defendant to custody or a modification of the terms of bail.

11 * * *

12 Art. 465. Specific indictment forms

13 A. The following forms of charging offenses may be used, but any other
 14 forms authorized by this title may also be used:

15 * * *

16 39. Aggravated Rape or First Degree Rape--A.B. committed aggravated or
 17 first degree rape upon C.D.

18 40. Simple Rape or Third Degree Rape--A.B. committed simple or third
 19 degree rape upon C.D.

20 * * *

21 Art. 571. Crimes for which there is no time limitation

22 There is no time limitation upon the institution of prosecution for any crime
 23 for which the punishment may be death or life imprisonment or for the crime of
 24 forcible or second degree rape (R.S. 14:42.1).

25 * * *

26 Art. 814. Responsive verdicts; in particular

27 A. The only responsive verdicts which may be rendered when the indictment
 28 charges the following offenses are:

29 * * *

- 1 8. Aggravated Rape or First Degree Rape:
- 2 Guilty.
- 3 Guilty of attempted aggravated or first degree rape.
- 4 Guilty of forcible or second degree rape.
- 5 Guilty of attempted forcible or second degree rape.
- 6 Guilty of sexual battery.
- 7 Guilty of simple or third degree rape.
- 8 Guilty of attempted simple or third degree rape.
- 9 Guilty of oral sexual battery.
- 10 Not guilty.
- 11 8.1. Aggravated or first degree rape of a child under the age of thirteen:
- 12 Guilty.
- 13 Guilty of attempted aggravated or first degree rape.
- 14 Guilty of forcible or second degree rape.
- 15 Guilty of attempted forcible or second degree rape.
- 16 Guilty of simple or third degree rape.
- 17 Guilty of attempted simple or third degree rape.
- 18 Guilty of sexual battery.
- 19 Guilty of molestation of a juvenile or a person with a physical or mental
- 20 disability.
- 21 Guilty of attempted molestation of a juvenile or a person with a physical or
- 22 mental disability.
- 23 Guilty of indecent behavior with a juvenile.
- 24 Guilty of attempted indecent behavior with a juvenile.
- 25 Not guilty.
- 26 9. Attempted Aggravated Rape or Attempted First Degree Rape:
- 27 Guilty.
- 28 Guilty of attempted forcible or second degree rape.
- 29 Guilty of attempted simple or third degree rape.
- 30 Not guilty.

1 10. Forcible Rape or Second Degree Rape:

2 Guilty.

3 Guilty of attempted forcible or second degree rape.

4 Guilty of simple or third degree rape.

5 Guilty of attempted simple or third degree rape.

6 Guilty of sexual battery.

7 Not guilty.

8 11. Attempted Forcible Rape or Attempted Second Degree Rape:

9 Guilty.

10 Guilty of attempted simple or third degree rape.

11 Not guilty.

12 12. Simple Rape or Third Degree Rape:

13 Guilty.

14 Guilty of attempted simple or third degree rape.

15 Guilty of sexual battery.

16 Not guilty.

17 13. Attempted Simple Rape or Attempted Third Degree Rape:

18 Guilty.

19 Not guilty.

20 * * *

21 Art. 890.1. Waiver of minimum mandatory sentences; procedure; exceptions

22 * * *

23 D. The provisions of this Article shall not apply to a sex offense as defined
24 in R.S. 15:541 or to any of the following crimes of violence:

25 * * *

26 (9) R.S. 14:42 (Aggravated or first degree rape).

27 (10) R.S. 14:42.1 (Forcible or second degree rape).

28 (11) R.S. 14:43 (Simple or third degree rape).

29 * * *

1 Art. 893.3. Sentence imposed on felony or specifically enumerated misdemeanor in
2 which firearm was possessed, used, or discharged

3 * * *

4 E.(1)

5 * * *

6 (b) A "violent felony" for the purposes of this Paragraph is: second degree
7 sexual battery, aggravated burglary, carjacking, armed robbery, second degree
8 kidnapping, manslaughter, or forcible or second degree rape.

9 * * *

10 Art. 905.4. Aggravating circumstances

11 A. The following shall be considered aggravating circumstances:

12 (1) The offender was engaged in the perpetration or attempted perpetration
13 of aggravated or first degree rape, forcible or second degree rape, aggravated
14 kidnapping, second degree kidnapping, aggravated burglary, aggravated arson,
15 aggravated escape, assault by drive-by shooting, armed robbery, first degree robbery,
16 second degree robbery, simple robbery, cruelty to juveniles, second degree cruelty
17 to juveniles, or terrorism.

18 * * *

19 (3) The offender has been previously convicted of an unrelated murder,
20 aggravated or first degree rape, aggravated burglary, aggravated arson, aggravated
21 escape, armed robbery, or aggravated kidnapping.

22 * * *

23 Section 7. Code of Evidence Article 412.1 is hereby amended and reenacted to read
24 as follows:

25 Art. 412.1. Victim's attire in sexual assault cases

26 When an accused is charged with the crime of aggravated or first degree rape,
27 forcible or second degree rape, simple or third degree rape, sexual battery, or second
28 degree sexual battery, the manner and style of the victim's attire shall not be
29 admissible as evidence that the victim encouraged or consented to the offense;
30 however, items of clothing or parts thereof may be introduced in order to establish

1 the presence or absence of the elements of the offense and the proof of its
2 occurrence.

3 Section 8. Children's Code Articles 305(A)(1)(introductory paragraph) and (b),
4 (B)(1)(b) and (2)(f) and (g), 855(B)(7)(a) and (b), 857(A)(4) and (8) and (C), 858(B),
5 879(B)(2), 884.1(A)(1) and (2), 897(B)(1)(c), 897.1(A), and 901(E) are hereby amended
6 and reenacted to read as follows:

7 Art. 305. Divestiture of juvenile court jurisdiction; original criminal court
8 jurisdiction over children; when acquired

9 A.(1) When a child is fifteen years of age or older at the time of the
10 commission of first degree murder, second degree murder, aggravated or first degree
11 rape, or aggravated kidnapping, he is subject to the exclusive jurisdiction of the
12 juvenile court until either:

13 * * *

14 (b) The juvenile court holds a continued custody hearing pursuant to Articles
15 819 and 820 and finds probable cause that he committed one of these offenses,
16 whichever occurs first. During this hearing, when the child is charged with
17 aggravated or first degree rape, the court shall inform him that if convicted he shall
18 register as a sex offender for life, pursuant to Chapter 3-B of Title 15 of the
19 Louisiana Revised Statutes of 1950.

20 * * *

21 B.(1) When a child is fifteen years of age or older at the time of the
22 commission of any of the offenses listed in Subparagraph (2) of this Paragraph, he
23 is subject to the exclusive jurisdiction of the juvenile court until whichever of the
24 following occurs first:

25 * * *

26 (b) The juvenile court holds a continued custody hearing and finds probable
27 cause that the child has committed any of the offenses listed in Subparagraph (2) of
28 this Paragraph and a bill of information charging any of the offenses listed in
29 Subparagraph (2) of this Paragraph is filed. During this hearing, when the child is

1 charged with forcible or second degree rape or second degree kidnapping, the court
2 shall inform him that if convicted he shall register as a sex offender for life, pursuant
3 to Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

4 (2)

5 * * *

6 (f) Forcible or second degree rape.

7 (g) Simple or third degree rape.

8 * * *

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

24 (a) Aggravated or first degree rape as defined in R.S. 14:42.

25 (b) Forcible or second degree rape as defined in R.S. 14:42.1.

26 * * *

27 Art. 857. Transfers for criminal prosecution; authority

28 A. The court on its own motion or on motion of the district attorney may
29 conduct a hearing to consider whether to transfer a child for prosecution to the
30 appropriate court exercising criminal jurisdiction if a delinquency petition has been

1 filed which alleges that a child who is fourteen years of age or older at the time of
2 the commission of the alleged offense but is not otherwise subject to the original
3 jurisdiction of a court exercising criminal jurisdiction has committed any one or
4 more of the following crimes:

5 * * *

6 (4) Aggravated or first degree rape.

7 * * *

8 (8) Forcible or second degree rape if the rape is committed upon a child at
9 least two years younger than the rapist.

10 * * *

11 C.(1) An adult who is charged with an offense committed at the time he was
12 a child for which the time limitation for the institution of prosecution pursuant to
13 Code of Criminal Procedure ~~Art.~~ Article 571 has not lapsed and for which he was
14 subject to prosecution as an adult due to his age at the time the offense was
15 committed shall be prosecuted as an adult in the appropriate court exercising
16 criminal jurisdiction. If convicted, he shall be punished as an adult as provided by
17 law.

18 (2) An adult who is charged with an offense committed at the time he was
19 a child for which the time limitation for the institution of prosecution pursuant to
20 Code of Criminal Procedure ~~Art.~~ Article 571 has not lapsed and for which he was not
21 subject to prosecution as an adult due to his age at the time the offense was
22 committed shall be prosecuted as an adult in the appropriate court exercising
23 criminal jurisdiction. If convicted, he shall be committed to the custody of the
24 Department of Public Safety and Corrections to be confined in secure placement for
25 a period of time as determined by the court not to exceed the maximum amount of
26 confinement he could have been ordered to serve had he been adjudicated for the
27 offense as a child at the time the offense was committed.

1 Art. 858. Motion for transfer; notice

2 * * *

3 B. Notice in writing of the time, place, and purpose of the hearing shall be
4 given to the child and his parents and other custodian, if any, at least ten days before
5 the hearing. In addition, if the petition charges the child with second degree
6 kidnapping, aggravated or first degree rape, or forcible or second degree rape, the
7 court shall inform the child regarding the applicable registration and duration
8 requirements in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

9 * * *

10 Art. 879. Presence at adjudication hearing; exclusion of witnesses

11 * * *

12 B.

13 * * *

14 (2) Except as otherwise provided by law, in all juvenile delinquency
15 proceedings involving the violation of first degree murder (R.S. 14:30), second
16 degree murder (R.S. 14:30.1), aggravated or first degree rape (R.S. 14:42),
17 aggravated kidnapping (R.S. 14:44), armed robbery (R.S. 14:64), negligent homicide
18 (R.S. 14:32)₂ or vehicular homicide (R.S. 14:32.1), the court shall allow the victim,
19 the victim's spouse, children, siblings, parents, grandparents, guardians, and legal
20 custodians to be present at the adjudication hearing.

21 * * *

22 Art. 884.1. Informing the child of sex offender registration and notification
23 requirements; form

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

27 (1) Aggravated or first degree rape as defined in R.S. 14:42.

28 (2) Forcible or second degree rape as defined in R.S. 14:42.1.

29 * * *

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

2 * * *

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

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

6 * * *

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

17 * * *

18 Art. 897.1. Disposition after adjudication of certain felony-grade delinquent acts

19 A. After adjudication of a felony-grade delinquent act based upon a violation
20 of R.S. 14:30, first degree murder; R.S. 14:30.1, second degree murder; R.S. 14:42,
21 aggravated or first degree rape; or R.S. 14:44, aggravated kidnapping, the court shall
22 commit the child who is fourteen years or older at the time of the commission of the
23 offense to the custody of the Department of Public Safety and Corrections to be
24 confined in secure placement until the child attains the age of twenty-one years
25 without benefit of parole, probation, suspension of imposition or execution of
26 sentence, or modification of sentence.

27 * * *

1 Art. 901. Disposition guidelines; generally

2 * * *

3 E. The general disposition guidelines set forth in Paragraphs A through D of
4 this Article do not apply when a child has been adjudicated a delinquent for the
5 violation of R.S. 14:30, first degree murder; R.S. 14:30.1, second degree murder;
6 R.S. 14:42, aggravated or first degree rape; R.S. 14:44, aggravated kidnapping; or
7 R.S. 14:64, armed robbery in accordance with Article 897.1.

8 * * *

9 Section 9. Nothing in this Act alleviates any person arrested, convicted, or
10 adjudicated delinquent of aggravated rape, forcible rape, or simple rape prior to the effective
11 date of this Act from any requirement, obligation, or consequence imposed by law as a result
12 of that arrest, conviction, or adjudication including but not limited to any requirements
13 regarding the setting of bail, sex offender registration and notification, parental rights,
14 probation, parole, sentencing, or any other requirement, obligation, or consequence imposed
15 by law as a result of that arrest, conviction, or adjudication.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____