
DIGEST

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White

HB No. 86

Abstract: Amends crimes involving sexual battery, indecent behavior, and molestation to include elements of sexual abuse of the infirm and provides for criminal penalties.

Present law provides for the elements and criminal penalties for the crimes of sexual battery, second degree sexual battery, oral sexual battery, indecent behavior with juveniles, and molestation of a juvenile.

Proposed law amends present law to provide that it shall also be unlawful for any person to engage in the prohibited activities defined by present law when the offender is 17 or older and any of the following occur:

- (1) The act is without the consent of the victim, and the victim is paraplegic, quadriplegic, or is otherwise incapable of preventing the act due to a physical disability.
- (2) The victim has an intelligence quotient of 70 or lower.
- (3) The act is without the consent of the victim, and the victim is 65 or older.

Proposed law retains present law defenses and further provides that lack of knowledge of the victim's mental or physical capacity is not a defense.

Proposed law provides that whoever violates these provisions of proposed law shall be imprisoned at hard labor for not less than 25 nor more than 99 years, with at least 25 years of the sentence imposed being served without benefit of parole, probation, or suspension of sentence. For the crimes of sexual battery, second degree sexual battery, oral sexual battery, and molestation, provides that upon completion of the term of imprisonment, the offender shall be electronically monitored by DPS&C for the remainder of his natural life.

Proposed law amends present law to prohibit indecent behavior with the infirm which is the commission of any of the following acts by any person who is 17 or older with the intention of arousing or gratifying the sexual desires of either person:

- (1) Any lewd or lascivious act upon the person or in the presence of any person who is physically or mentally infirm.
- (2) The transmission, delivery, or utterance of any textual, visual, written, or oral

communication depicting lewd or lascivious conduct, text, words, or images to any person who is physically or mentally infirm.

Proposed law amends present law to provide that the trial judge shall have the authority to issue any necessary orders to protect the safety of any victim of this crime during the pendency of the criminal action and beyond its conclusion.

Proposed law defines "mentally infirm" and "physically infirm".

(Amends R.S. 14:43.1(A), (B), and (C)(3), (4), (5), and (6), 43.2(C)(3), 43.3(A), (B), and (C)(3), 43.6(A) and (B)(1), 81(A), (B), (C), and (H)(3), and 81.2; Adds R.S. 14:43.1(C)(7), 43.2(D), 43.3(D), and 81(H)(4); Repeals R.S. 14:43.2(C)(4), (5), and (6) and 43.3(C)(4), (5), and (6))