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## DIGEST

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White

HB No. 86

**Abstract:** Amends crimes involving sexual battery and molestation to include elements of sexual abuse of persons with a mental or physical disability and persons 65 years of age and older 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, 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 victim has paraplegia, quadriplegia, or is otherwise incapable of preventing the act due to a physical disability.
- (2) The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.
- (3) The victim is 65 years or older.

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.

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

### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Changed all references to a person with disabilities as "the infirm" to "a person with a

physical or mental disability".

2. Changed all references to victims as a "paraplegic" or "quadriplegic" to the victim "has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability".
3. Changed all references to victims with "an intelligence quotient of seventy or lower" to "the victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity".
4. Deleted provision which stated that the offender's lack of knowledge of the victim's physical or mental capacity shall not be a defense to the crime.
5. Deleted proposed law amendments to the crime of indecent behavior with juveniles.