The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

SB 117 Engrossed

2015 Regular Session

Gary Smith

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

<u>Proposed law</u> renames the crime of aggravated rape, forcible rape, and simple rape to "first degree rape", "second degree rape", and "third degree rape", respectively.

<u>Proposed law</u> adds that third degree rape is committed when the offender acts without the consent of the victim.

<u>Proposed law</u> changes a possible penalty for third degree rape <u>from</u> imprisonment with or without hard labor <u>to</u> imprisonment at hard labor.

Proposed law otherwise retains present law.

<u>Present law</u> 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 any of the following occur:

- (1) The offender acts without the consent of the victim.
- (2) The act is consensual but the other person, who is not the spouse of the offender, has not yet attained 15 years of age and is at least three years younger than the offender.
- (3) The offender is 17 years of age or older and any of the following exist:
 - (a) The act is without consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:
 - (i) The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.
 - (ii) 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.
 - (b) The act is without consent of the victim, and the victim is 65 years of age or older.

Proposed law retains present law and adds that the prohibited touching can occur directly or through

clothing.

Proposed law creates the crime of misdemeanor sexual battery.

<u>Proposed law</u> provides that misdemeanor sexual battery is the intentional touching of the breasts or buttocks of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing, or the intentional touching of the breasts or buttocks of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when the offender acts without the consent of the victim.

<u>Proposed law</u> provides that misdemeanor sexual battery is punishable by a fine of up to \$1,000, or imprisonment for up to six months, or both. <u>Proposed law</u> further provides that an offender convicted of misdemeanor sexual battery cannot have his conviction set aside and prosecution dismissed in accordance with certain provisions of <u>present law</u>. <u>Proposed law</u> further provides that an offender convicted of misdemeanor sexual battery is not subject to any provisions of <u>present law</u> that are applicable exclusively to sex offenders, including but not limited to provisions of <u>present law</u> that require the registration of the offender and notice to the public.

<u>Proposed law</u> authorizes and directs the La. Law Institute to change all references to the crimes of "aggravated rape", "forcible rape", and "simple rape" in <u>present law</u>, not already amended by <u>proposed law</u>, in the manner it deems appropriate in order to make those provisions consistent with the provisions of <u>proposed law</u>.

Effective August 1, 2015.

(Amends R.S. 14:42(A)(intro para) and 42(D)(1), 42.1, 43, and 43.1(A); adds R.S. 14:43.1.1)

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 <u>proposed law</u> is committed when the offender acts without the consent of the victim.
- 2. Changes a possible penalty for third degree rape <u>from</u> imprisonment with or without hard labor <u>to</u> imprisonment at hard labor.