



Am. Sub. H.B. 485

124th General Assembly
(As Passed by the House)

Reps. Widowfield, Womer Benjamin, Williams, Roman, Hoops, Webster, McGregor, Wolpert, Flowers, Lendrum, Salerno, Latta, Trakas, Young, Metzger, Olman, Hagan, Brinkman, Evans, Clancy, Jerse, Carey, Reinhard, Setzer, Schmidt, Collier, Grendell, Seitz, Buehrer, Hughes, Callender, Niehaus, Schuring, Gilb, Oakar, Seaver, Otterman, Faber, Reidelbach, Sulzer, S. Smith, Sykes, Brown, Manning, Carmichael, Aslanides, Cates, G. Smith, Coates, Sferra, Schaffer, DeWine, Flannery, Cirelli, Barrett, Distel, Ogg, Redfern, Hartnett, DeBose, Fedor, Perry, Wilson, Rhine, Stapleton, Schneider, Strahorn, Krupinski, Kearns, Latell, Peterson, Bocchieri, DePiero

BILL SUMMARY

- Requires that a person who rapes a child who is less than ten years of age must be imprisoned for life whether or not the person purposely compels the child to submit to sexual conduct by force or threat of force.
- Requires that a person who rapes a child under 13 years of age to be imprisoned for life and permits the person to be imprisoned for life without parole, if the person previously has been convicted of or pleaded guilty to rape involving a victim who is less than 13 years of age.
- Declares an emergency.

CONTENT AND OPERATION

Operation of the bill

The bill amends the penalty for violating the portion of the offense of rape that prohibits a person from engaging in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, *when the other person is less than 13 years of age*, whether or not the offender knows the age of the other person. Under existing law, such an offender generally is guilty of a felony of the first degree, but if the offender purposely compels the victim to submit by force or threat of force,

the offender must be imprisoned for life.¹ Under the bill, in addition to the circumstances specified under existing law, such an offender also must be imprisoned for life if the victim is less than ten years of age regardless of whether the offender purposely compels the victim to submit by force or threat of force. Also, under the bill, if a rape offender previously has been convicted of or pleaded guilty to rape of a person under 13 years of age or to violating a law of another state or the United States that is substantially similar to rape involving a victim who is less than 13 years of age, the offender must be imprisoned for life or life without parole. (R.C. 2907.02(B) and 2967.13(E).)

Existing law

The existing offense of rape contains two sets of prohibitions. The first set prohibits a person from engaging in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:

(1) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

(2) The other person is less than 13 years of age, whether or not the offender knows the age of the other person.

(3) The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

The second set prohibits a person from engaging in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.

A person who violates any of these prohibitions is guilty of rape, a felony of the first degree. If the offender commits the rape by the method described in paragraph (1), above, and substantially impairs the other person's judgment or control by administering a controlled substance to the other person surreptitiously or by force, threat of force, or deception, the prison term imposed upon the

¹ *A prisoner serving a sentence of imprisonment for life that was imposed for rape becomes eligible for parole after serving a term of ten full years' imprisonment (R.C. 2967.13(A)(5)).*

offender must be one of the prison terms prescribed for a felony of the first degree that is not less than five years. If the offender commits the rape by the method described in paragraph (2), above, (engaging in sexual conduct with a child under 13 years of age) and if the offender purposely compels the victim to submit by force or threat of force, the offender must be imprisoned for life. (R.C. 2907.02(A) and (B).)

HISTORY

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