



H.B. 538*

126th General Assembly
(As Introduced)

Reps.

BILL SUMMARY

- Requires a court to impose a prison term on an offender who is convicted of or pleads guilty to sexual battery if the victim is less than 13 years of age.

CONTENT AND OPERATION

Sexual battery

Current law

Current law, unchanged by the bill, prohibits a person from engaging in sexual conduct with another, not the spouse of the offender, when any of the following apply (R.C. 2907.03):

- (1) The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution.
- (2) The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.
- (3) The offender knows that the other person submits because the other person is unaware that the act is being committed.
- (4) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.
- (5) The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person.

* *This analysis was prepared before the introduction of the bill appeared in the House Journal.*

(6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.

(7) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.

(8) The other person is a minor, the offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution.

(9) The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member, or is a person with temporary or occasional disciplinary control over the other person.

(10) The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.

(11) The other person is confined in a detention facility, and the offender is an employee of that detention facility.

A violation of one of these prohibitions is the offense of sexual battery, a felony of the third degree.

The bill

The bill requires a court to impose a mandatory prison term on the offender that is equal to one of the prison terms prescribed for a felony of the third degree if the victim is less than 13 years of age (R.C. 2907.03(B).)

COMMENT

If a person engages in sexual conduct with a person who is not the offender's spouse and who is under 13 years of age, the person also can be charged with the offense of rape under R.C. 2907.02(A)(1)(b).

HISTORY

ACTION

DATE

Introduced

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