

SB0854/833421/2

BY: Conference Committee

AMENDMENTS TO SENATE BILL 854
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 3 in its entirety and substitute “and Penalties”; and strike beginning with “authorizing” in line 4 down through “admissible;” in line 16 and substitute “increasing the maximum and mandatory minimum penalties for a person convicted of rape in the second degree of a child under the age of 13 years; increasing the maximum and mandatory minimum penalties for a person convicted of sexual offense in the second degree against a child under the age of 13 years;”.

On page 2, in line 39, after “notify” insert “a”; and in the same line, strike “units” and substitute “unit”.

On pages 3 and 4, strike beginning with “creating” in line 27 on page 3 down through “Act;” in line 20 on page 4.

On page 4, in line 20, before “providing” insert “requiring the Department to adopt certain regulations on or before a certain date;”; in line 23, strike “making certain provisions of this Act subject to a certain contingency;”; strike beginning with “offender” in line 24 down through “procedures” in line 25 and substitute “offenders”; in line 26, strike “without” and substitute “with”; in line 28, strike “1-101(g)” and substitute “3-304 and 3-306”; and strike in their entirety lines 31 through 35, inclusive.

On page 5, strike in their entirety lines 10 through 20, inclusive.

AMENDMENT NO. 2

On page 5, after line 23, insert:

“3-304.”

(Over)

(a) A person may not engage in vaginal intercourse with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of rape in the second degree and on conviction is subject to imprisonment for not less than [5] 15 years and not exceeding [20 years] LIFE.

(ii) A court may not suspend any part of the mandatory minimum sentence of [5] 15 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than [5] 15 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial.

3-306.

(a) A person may not engage in a sexual act with another:

(1) by force, or the threat of force, without the consent of the other;

(2) if the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual, and the person performing the sexual act knows or reasonably should know that the victim is a mentally defective individual, a mentally incapacitated individual, or a physically helpless individual; or

(3) if the victim is under the age of 14 years, and the person performing the sexual act is at least 4 years older than the victim.

(b) A person 18 years of age or older may not violate subsection (a)(1) or (2) of this section involving a child under the age of 13 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of the felony of sexual offense in the second degree and on conviction is subject to imprisonment not exceeding 20 years.

(2) (i) Subject to subparagraph (iv) of this paragraph, a person 18 years of age or older who violates subsection (b) of this section is guilty of the felony of

(Over)

sexual offense in the second degree and on conviction is subject to imprisonment for not less than [5] 15 years and not exceeding [20 years] LIFE.

(ii) A court may not suspend any part of the mandatory minimum sentence of [5] 15 years.

(iii) The person is not eligible for parole during the mandatory minimum sentence.

(iv) If the State fails to comply with subsection (d) of this section, the mandatory minimum shall not apply.

(d) If the State intends to seek a sentence of imprisonment for not less than [5] 15 years under subsection (c)(2) of this section, the State shall notify the person in writing of the State's intention at least 30 days before trial."

AMENDMENT NO. 3

On pages 5 through 7, strike in their entirety the lines beginning with line 24 on page 5 through line 14 on page 7, inclusive.

AMENDMENT NO. 4

On page 8, in line 25, strike "OR SLEEPS" and substitute ", SLEEPS, OR VISITS".

On page 14, after line 24, insert:

"(4) CONSPIRING TO COMMIT, ATTEMPTING TO COMMIT, OR COMMITTING AN OFFENSE THAT WOULD REQUIRE THE PERSON TO REGISTER AS A TIER I SEX OFFENDER AFTER THE PERSON WAS ALREADY REGISTERED AS A TIER I SEX OFFENDER;"

and in lines 25 and 29, strike “(4)” and “(5)”, respectively, and substitute “(5)” and “(6)”, respectively.

On page 15, in line 5, strike “§ 2-201(4)(VIII),” and substitute “§ 2-201(A)(4)(VIII),”; in line 21, after “(4)” insert “CONSPIRING TO COMMIT, ATTEMPTING TO COMMIT, OR COMMITTING AN OFFENSE THAT WOULD REQUIRE THE PERSON TO REGISTER AS A TIER I OR TIER II SEX OFFENDER AFTER THE PERSON WAS ALREADY REGISTERED AS A TIER II SEX OFFENDER;”

(5);

and in line 30, strike “(5)” and substitute “(6)”.

AMENDMENT NO. 5

On pages 16 and 17, strike in their entirety the lines beginning with line 16 on page 16 through line 7 on page 17, inclusive, and substitute:

“(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THIS SUBTITLE SHALL BE APPLIED RETROACTIVELY TO INCLUDE A PERSON WHO:

(1) IS UNDER THE CUSTODY OR SUPERVISION OF A SUPERVISING AUTHORITY ON OCTOBER 1, 2010;

(2) WAS SUBJECT TO REGISTRATION UNDER THIS SUBTITLE ON SEPTEMBER 30, 2010; OR

(3) IS CONVICTED OF ANY CRIME ON OR AFTER OCTOBER 1, 2010, AND HAS A PRIOR CONVICTION FOR AN OFFENSE FOR WHICH REGISTRATION AS A SEX OFFENDER IS REQUIRED UNDER THIS SUBTITLE.”

(Over)

On page 17, in line 8, strike “(E)” and substitute “(B)”; and in line 9, strike “OR (B)”.

On page 21, in line 13, strike “AN”; in the same line, strike “THAT” and substitute “WHERE”; in line 17, strike “OR”; and in lines 18 and 22, in each instance, strike the bracket.

On page 22, in lines 4 and 6, in each instance, strike the bracket; in lines 4, 7, and 13, strike “(2)”, “(3)”, and “(4)”, respectively, and substitute “(3)”, “(4)”, and “(5)”, respectively; and in line 5, strike “7” and substitute “3”.

On page 23, in line 4, strike “A” and substitute “THE”.

On page 24, in line 27, strike “7” and substitute “5”; and in line 28, strike “A”.

On page 25, in line 24, after the first “OF” insert “EACH OF”; in the same line, strike “EMPLOYER” and substitute “EMPLOYERS”; and in the same line, strike the second “THE” and substitute “EACH”.

On page 26, in line 11, strike “OR”; in line 14, strike “ANY” and substitute “ALL”; in line 19, strike “OR” and substitute a comma; in the same line, after “NUMBER” insert a comma; in line 22, strike “ADDRESS” and substitute “ADDRESSES”; in line 24, after “(14)” insert “ALL LANDLINE AND CELLULAR”; and strike beginning with the comma in line 26 down through the second “NUMBERS” in line 27.

On page 27, in line 2, strike “DATE” and substitute “DATES”; and in line 3, strike “REGISTRATION STATUS,”.

On page 28, in line 4, strike “**OR**”; in line 15, strike the period and substitute “; **OR**”; in lines 16 and 19, in each instance, strike the bracket; in line 16, strike “(iii)” and substitute “**(IV)**”; in line 17, strike “11-701(c)(5)(i) of this subtitle or a person described under § 11-701(j)(3)(i)” and substitute “**11-704(C)(1)**”; in line 25, strike “**OR**”; and in lines 26 and 30, in each instance, strike the bracket.

On page 29, in line 1, strike “**(1)**”; in lines 4, 6, 7, and 9, strike “**(I)**”, “**(II)**”, “**(III)**”, and “**(IV)**”, respectively, and substitute “**(1)**”, “**(2)**”, “**(3)**”, and “**(4)**”, respectively; in line 10, strike “**CERTIFIED BY THE STATE**”; and strike in their entirety lines 11 through 22, inclusive.

On page 31, in line 25, strike “**A**”.

On page 33, in line 10, strike “**A**” and substitute “**THE**”; and in line 17, strike “**HOME OR CELL**” and substitute “**LANDLINE OR CELLULAR**”.

On page 34, in line 2, strike “**HOME OR CELL**” and substitute “**LANDLINE OR CELLULAR**”; and in line 11, strike “**A**”.

On page 35, in line 33, after “registrants” insert “**AND A LISTING OF JUVENILE SEX OFFENDERS**”.

On page 37, strike beginning with “**OR**” in line 13 down through “**ARTICLE**” in line 14; in line 16, strike the first “the” and substitute “**A**”; and in line 18, strike “a” and substitute “**THE**”.

AMENDMENT NO. 6

On pages 38 through 44, strike in their entirety the lines beginning with line 10 on page 38 through line 33 on page 44, inclusive, and substitute:

(Over)

“SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 31, 2010, the Department of Public Safety and Correctional Services shall adopt regulations to implement the listing of juvenile sex offenders in accordance with this Act, including a definition of “law enforcement personnel” who are authorized to access the listing.”.

On page 45, in line 1, strike “5.” and substitute “3.”; strike in their entirety lines 7 through 11, inclusive; in line 12, strike “7.” and substitute “4.”; and strike beginning with the second comma in line 12 down through “Act.” in line 13.