

ENGROSSED HOUSE
BILL NO. 1441

By: Staggs, Settle, Voskuhl,
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An Act relating to crimes and punishments; amending
21 O.S. 1991, Sections 1111, as last amended by
Section 1, Chapter 22, O.S.L. 1995, 1112 and 1114
(21 O.S. Supp. 1996, Section 1111), which relate to
rape; modifying certain age limitations; expanding
circumstances that constitute rape; modifying
degree of rape involving use of certain substances;
and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1111, as
last amended by Section 1, Chapter 22, O.S.L. 1995 (21 O.S. Supp.
1996, Section 1111), is amended to read as follows:

Section 1111. A. Rape is an act of sexual intercourse
involving vaginal or anal penetration accomplished with a male or
female who is not the spouse of the perpetrator and who may be of
the same or the opposite sex as the perpetrator under any of the
following circumstances:

1. Where the victim is under ~~sixteen (16)~~ eighteen (18) years
of age; or
2. Where the victim is incapable through mental illness or any
other unsoundness of mind, whether temporary or permanent, of giving
legal consent; or

3. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person; or

4. Where the victim is intoxicated by ~~a narcotic or anesthetic agent~~ alcohol to such an extent that the victim is incapable of giving legal consent or where the victim is intoxicated by a controlled dangerous substance or other intoxicant, administered by or with the privity of the accused as a means of forcing the victim to submit; or

5. Where the victim is at the time unconscious of the nature of the act and this is known to the accused; or

6. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with ~~such~~ the spouse with intent to induce ~~such~~ that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape; or

7. Where the victim is under the legal custody or supervision of a state, county or municipal agency or political subdivision and engages in sexual intercourse with a state, county or municipal or political subdivision employee or employee of a contractor of the state, county or municipality or political subdivision that exercises authority over the victim.

B. Rape is an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1112, is amended to read as follows:

Section 1112. No person can be convicted of rape or rape by instrumentation on account of an act of sexual intercourse with anyone over the age of ~~fourteen (14)~~ sixteen (16) years, with his or her consent, unless such person was over the age of eighteen (18) years at the time of such act.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1114, is amended to read as follows:

Section 1114. A. Rape in the first degree shall include:

1. Rape committed by a person over eighteen (18) years of age upon a person under ~~fourteen (14)~~ sixteen (16) years of age; or

2. Rape committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or

3. Rape accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the person committing the crime; or

4. Rape by instrumentation resulting in bodily harm is rape by instrumentation in the first degree regardless of the age of the person committing the crime; or

5. Rape by instrumentation committed upon a person under ~~fourteen (14)~~ sixteen (16) years of age; or

6. Rape accomplished by intoxication of the victim by alcohol to such an extent that the victim is incapable of giving legal consent or where the victim is intoxicated by a controlled dangerous substance or other intoxicant, administered by or with the privity of the accused as a means of forcing the victim to submit.

B. In all other cases, rape or rape by instrumentation is rape in the second degree.

SECTION 4. This act shall become effective November 1, 1997.

Passed the House of Representatives the 4th day of March, 1997.

Speaker

of the House of
Representatives

Passed the Senate the ____ day of _____, 1997.

President

of the Senate