

1 THE STATE SENATE
2 Tuesday, March 30, 1999

3 Committee Substitute for
4 ENGROSSED
5 House Bill No. 1149

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1149 - By:
7 COLEMAN, ASKINS, BENGE, BLACKBURN, BOYD, BRYANT, CALVEY, DANK,
8 EASLEY, GREENWOOD, MILLER, PETTIGREW, PHILLIPS, PIATT, POPE (Tim),
9 ROGGOW, SELLERS, STAGGS and WINCHESTER of the House and HORNER of
10 the Senate.

11 [crimes and punishments - rape - expanding circumstances -
12 effective date]

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

14 SECTION 1. AMENDATORY 21 O.S. 1991, Section 1111, as
15 last amended by Section 1, Chapter 22, O.S.L. 1995 (21 O.S. Supp.
16 1998, Section 1111), is amended to read as follows:

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

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

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

4 4. Where the victim is intoxicated by a narcotic or anesthetic
5 agent, administered by or with the privity of the accused as a means
6 of forcing the victim to submit; or

7 5. Where the victim is at the time unconscious of the nature of
8 the act or suffering from severely diminished cognition and this is
9 known to the accused. “Severely diminished cognition” means the
10 victim’s central nervous system, vision, hearing, speech, other
11 sensory and motor functions, rational thought process, awareness,
12 judgment, and perceptions are temporarily but significantly impaired
13 by injury, illness, or intoxication by alcohol or any substance,
14 other than alcohol, which is capable of being ingested, inhaled,
15 injected or absorbed into the human body to such extent that the
16 victim is incapable of rational thought, consent and resistance to
17 the act; or

18 6. Where the victim submits to sexual intercourse under the
19 belief that the person committing the act is a spouse, and this
20 belief is induced by artifice, pretense, or concealment practiced by
21 the accused or by the accused in collusion with ~~such~~ the spouse with
22 intent to induce ~~such~~ that belief. In all cases of collusion
23 between the accused and the spouse to accomplish such act, both the

1 spouse and the accused, upon conviction, shall be deemed guilty of
2 rape; or

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

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

13 SECTION 2. AMENDATORY 21 O.S. 1991, Section 1114, is
14 amended to read as follows:

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

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

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

21 3. Rape accomplished with any person by means of force,
22 violence, or threats of force or violence accompanied by apparent

1 power of execution regardless of the age of the person committing
2 the crime; or

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

6 5. Rape by instrumentation committed upon a person under
7 fourteen (14) years of age; or

8 6. Rape accomplished with a person unconscious of the nature of
9 the act or suffering from severely diminished cognition as defined
10 in Section 1111 of this title.

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

13 SECTION 3. This act shall become effective November 1, 1999.

14 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 3-24-99 - DO
15 PASS, As Amended.