

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3890

By: Bell

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2011, Section 1111, as last amended by Section 3, Chapter 167, O.S.L. 2018 (21 O.S. Supp. 2019, Section 1111), which relates to the definition of rape; modifying elements of spousal rape; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1111, as last amended by Section 3, Chapter 167, O.S.L. 2018 (21 O.S. Supp. 2019, 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) years of age;
2. Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;

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

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

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

15 7. Where the victim is under the legal custody or supervision
16 of a state agency, a federal agency, a county, a municipality or a
17 political subdivision and engages in sexual intercourse with a
18 state, federal, county, municipal or political subdivision employee
19 or an employee of a contractor of the state, the federal government,
20 a county, a municipality or a political subdivision that exercises
21 authority over the victim, or the subcontractor or employee of a
22 subcontractor of the contractor of the state or federal government,
23 a county, a municipality or a political subdivision that exercises
24 authority over the victim;

1 8. Where the victim is at least sixteen (16) years of age and
2 is less than twenty (20) years of age and is a student, or under the
3 legal custody or supervision of any public or private elementary or
4 secondary school, junior high or high school, or public vocational
5 school, and engages in sexual intercourse with a person who is
6 eighteen (18) years of age or older and is an employee of the same
7 school system;

8 9. Where the victim is nineteen (19) years of age or younger
9 and is in the legal custody of a state agency, federal agency or
10 tribal court and engages in sexual intercourse with a foster parent
11 or foster parent applicant; or

12 10. Where the victim is at least sixteen (16) years of age but
13 less than eighteen (18) years of age and the perpetrator of the
14 crime is a person responsible for the child's health, safety or
15 welfare. "Person responsible for a child's health, safety or
16 welfare" shall include, but not be limited to:

- 17 a. a parent,
- 18 b. a legal guardian,
- 19 c. custodian,
- 20 d. a foster parent,
- 21 e. a person eighteen (18) years of age or older with whom
22 the child's parent cohabitates,
- 23 f. any other adult residing in the home of the child,

g. an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, or

h. an owner, operator or employee of a child care facility, as defined by Section 402 of Title 10 of the Oklahoma Statutes.

B. Rape is an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if ~~force~~:

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

2. The victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;

3. The victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit; or

4. The victim is at the time unconscious of the nature of the act and this fact is known to the accused.

SECTION 2. This act shall become effective November 1, 2020.

57-2-9154 GRS 12/02/19