

RAPE

H.B. 580, P.N. 694: Amends Title 18 of the Pennsylvania Consolidated Statutes for the purpose of changing society's recognition of rape from, primarily, a sexual act to that of a violent crime by defining degrees of sexual assault; by prohibiting the defendant's use, in court, of the victim's prior sexual activities; and by not requiring corroborative testimony on behalf of the victim.

Question:

Will this revision help stem the alarming increase in the incidence of rape of the past few years?

Answer:

H.B. 580's clarification of confusing and overlapping terms designating the nature of the offense, along with specification of degrees of sexual assault with penalties would aid substantially in the prosecution of rape cases. Additionally, prohibition of unjustified court use of a victim's sexual history would remove, from rape case defendants, the opportunity to escape punishment not accorded defendants in other cases. This smearing of the victim's reputation has been one of the principal reasons for low rates of reporting and low conviction rates in rape cases.

H.B. 580 also prohibits the giving of instructions to jurors cautioning them to view the victim's testimony in any way other than that in which all testimony is viewed.

Question:

Under current law, rape is a crime which only a male can commit with a female as the victim. How does H.B. 580 address itself to the Equal Rights Amendment concept? (proposed federal or existent Pennsylvania.)

Answer:

H.B. 580 would repeal current definitions of: rape; statutory rape; involuntary deviate sexual intercourse and voluntary deviate sexual intercourse. It would replace them with the single 'sex-neutral' crime of criminal sexual assault in varying degrees. This would bring Pennsylvania law into conformity with the Equal Rights concept of equal application to both sexes. Also, degrees of criminal sexual assault would be determined by both the factor of penetration and the factor of actual injury to the victim. Under current law penetration is the sole factor considered.

Question:

How does the reform bill define "sexual penetration" and "personal injury."

Answer:

"Sexual penetration" is defined as any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body without the requirement of emission of semen. Specifically, this includes sexual intercourse, anal intercourse, cunnilingus and fellation.

"Personal injury" is defined as bruising or lacerations, or demonstrable loss or impairment of any internal organ.

Question:

What other pertinent terms are defined in the reform bill?

Answer:

An "actor" is defined as a person accused of criminal sexual assault and, a "victim" is a person alleged to have been subjected to criminal assault.

"Sexual contact" would include the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of such parts, if the touching can reasonably be determined to be for sexual arousal or gratification.

"Intimate parts" would include a human being's primary genital area, groin, inner thigh, buttock, or breast.

"Force or coercion in the first degree" would include: coercion of the victim by the actor with a weapon or an article reasonably believed, by the victim, to be a weapon; application of physical force or violence; knowledge by the actor that the victim is physically helpless, mentally defective, or mentally incapacitated, and coercion of the victim by threatening force or violence on the victim or any other person.

"Force or coercion in the second degree" would include coercion of the victim by the actor to retaliate in the future against the victim or any other person. Such retaliation would include threats of physical punishment, kidnapping, or extortion. It would also include coercion by blackmail or economic coercion. Additionally, it would include the medical, psychological, or rehabilitative treatment or examination of the victim in a professionally recognized unethical or unacceptable manner.

Question:

How does H.B. 580 differentiate in cases in which society is concerned about girls under a certain age being capable of intelligently giving consent to sexual activity?

Answer:

The bill would retain the age of 16 as the age below which any penetration or contact would be criminal (even with consent of the victims). This would be designated as third degree sexual assault in view of the fact that many teenagers are sexually active before 16.

Sexual assault of the first degree covers children under 12 and children between 12 and 16 victimized by relatives or members of the household or by persons in authority over the children.

Question:

Is sexual assault upon a marital partner considered to be a criminal act?

Answer:

Under this bill, a person does not commit criminal sexual assault upon his or her legal spouse unless one or the other partner has filed for separate maintenance or divorce and the couple is living apart.

Question:

Is there a provision to permit an actor to raise in his defense the fact that he was mistaken concerning a child victim's age?

Answer:

The bill provides that when the criminality of conduct depends solely on the child's being 13, 14 or 15 years of age, with the actor less than 25 years of age, the actor must prove overwhelmingly that he reasonably believed the child to be of legal age. The burden of evidence is upon the actor.

Question:

What are the degrees and penalties for criminal sexual assault and assault with intent to commit criminal sexual assault?

Answer:

1) Criminal sexual assault in the first degree is a felony of the first degree

with maximum imprisonment of ^{not twenty} ~~more than ten~~ years upon conviction.

- 2) Criminal sexual assault in the second degree is a felony of the second degree with maximum imprisonment of not more than ten years.
- 3) Criminal sexual assault in the 3rd degree is a felony of the third degree with a maximum imprisonment of not more than seven years.
- 4) Criminal sexual assault in the 4th degree is a misdemeanor of the first degree with a maximum imprisonment of not more than five years.
- 5) Assault with intent to commit criminal sexual assault is a felony of the second degree with a maximum imprisonment of not more than ten years.

Question:

What are the penalties for repeated offenses under H.B. 580?

Answer:

Should an actor be convicted for a second offense of criminal sexual assault in the 1st, 2nd, or 3rd degree, he or she would receive a mandatory minimum sentence of at least five years; for a third offense, ten years and a fourth or subsequent offense, twenty years.

Question:

Is there any prohibition in H.B. 580 against publishing information on victims of sexual offenses?

Answer:

A section of H.B. 580 would prohibit publication of any information, on victim's request which would identify the victim of a sexual offense. Any person publishing such information would be guilty of a misdemeanor of the second degree which upon conviction would provide maximum imprisonment of not more than two years.

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