



# **Sexual Assault Response Team**

## **(Title IX Compliance Team)**

### **Procedures**

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# ABOUT THE SART

## Purpose

The Sexual Assault Response Team (SART), or Title IX Compliance Team, of Southern University and A&M College is intended to coordinate campus and community resources to effectively respond to sexual assault incidents among students, collect evidence with sensitivity to the complainant, provide due process to the respondent, and provide the best possible care, when necessary, to the complainant.

## Southern University and A&M College

Southern University and A & M College will cooperate with the SART to promote education efforts aimed at preventing sexual assault through programming aimed at sexual assault awareness and prevention. SUBR will encourage reporting of sexual assault incidents and will have on-campus reporting procedures that are compatible with SART guidelines. SUBR agrees with SART guidelines indicating that complainants should be supported, receive medical treatment and have access to reporting options both on and off campus.

## SART Members

The SART includes representatives from a broad range of campus and community organizations concerned with the needs of sexual assault victims, including participation from the health care, counseling, housing and law enforcement. The SART is coordinated by the Southern University Office of the Dean of Students. The SART is comprised of the following areas:

- Title IX Coordinator
- Southern University Police Department
- Office of the Dean of Students
- Office of Human Resources
- Residence Life and Housing
- Student Health Center
- University Counseling Center
- Office of Disability Services
- Office of Academic Affairs
- Department of Athletics
- Center for Teaching and Learning Excellence (for educational purposes only)

Additionally, the Southern University Center for Social Research will provide opportunities for training and support for the SART.

## Sexual Assault Confidentiality Agreement

All members of the SART will be required to sign a confidentiality agreement that includes the following language:

*The handling of sexual assault cases requires that every effort is made to maintain confidentiality. While it is essential that campus representatives honor the choices of the survivor, there are instances where it is the university's ethical and legal responsibility to disclose information regarding the circumstances related to a specific incident. **Confidentiality** is defined as ensuring that information is accessible only to those who have a need to know. For instance, authorized representatives may share information concerning a sexual assault when (1) the survivor or alleged perpetrator life, safety or health is threatened, (2) the life, health and/or safety of others is threatened; and (3) the survivor is a minor (under 17 years of*

age). Legal questions regarding confidentiality should be referred to Southern University System General Counsel Tracie Woods at 225- 771 - 4680.

I, \_\_\_\_\_, a member of the Southern University and A&M College (SUBR) Sexual Assault Response Team (SART), do understand that ALL information is STRICTLY "PRIVILEGED and CONFIDENTIAL," and that, the sharing of any information is strictly prohibited except when subpoenaed by the court system or there is a threat to life. My signature below attests to my understanding and agreement that I will adhere to this strict code of confidentiality.

## ROLE OF SART MEMBERS

### Title IX Coordinator

The Title IX Coordinator investigates allegations of sexual assault to determine whether the University's policy on sexual misconduct has been violated. The investigation will usually include interviews of the complainant, witnesses and the respondent, as well as analysis of documents and other relevant evidence. If the investigation involves allegations of student-on-student sexual assault, and the investigation results yield that sexual assault has occurred, the Title IX Coordinator will file a complaint with the Office of the Dean of Students and the complaint will be handled via the *Student Code of Conduct*. In those cases, the Title IX Coordinator will be identified as the complainant and it will be the prerogative of the complainant to determine in what capacity they will participate (i.e., co-complainant, witness, or no participation). Employee-on-student allegations of sexual assault will be investigated jointly by the Title IX Coordinator and the Office of Human Resources.

### Southern University Police Department

The Southern University Police Department (SUPD) investigates any reported sexual assault and evaluates criminal statutes and make a decision about whether there is sufficient evidence to refer a matter to the District Attorney's Office for prosecution. SUPD must meet with the complainant privately, not to prejudge but; (1) explain the process of a reporting case versus a non-reporting case; (2) assist in arranging for counseling and hospital treatment; (3) keep the individual up to date on the process; and, (4) ensure that the case is handled fairly, but sensitively. The decision of the complainant to report or not report will be respected by SUPD. The complainant has the right to report or not report the case to law enforcement. The complainant has the right to stop a case at any time.

### Office of the Dean of Students

The Office of the Dean of Students regulates, maintains and protects the welfare of Southern University and A&M College campus community by establishing and enforcing standards of behavior for students as set forth in the *Student Code of Conduct*. Students enrolled at Southern University and A&M College must ultimately assume full responsibility for their actions and must adhere to the *Student Code of Conduct*. The *Student Code of Conduct* sets forth responsibilities of which members of the University community owe one another. The University has equal obligations to protect the integrity of its educational mission and the interests of its student body. These policies, penalties, and sanctions have been established to protect the rights and interests of all members of the campus community.

Student complaints involving sexual assault filed directly with the Office of the Dean of Students will be referred to the Title IX Coordinator for investigation before any judicial proceedings are initiated. After the complaint is investigated by the Title IX Coordinator, the matter will be referred back to the Office of the Dean of Students where student judicial proceedings are initiated.

### Office of Human Resources

The Office of Human Resources provides the Southern University community and external customers high quality human resources services, including recruitment and selection, compensation and benefits, training and employee relations, expeditiously, respectfully, accurately and thoroughly. Student to employee complaints involving sexual assault filed directly with the Office of Human Resources will be referred to the Title IX Coordinator for a joint investigation before any administrative proceedings are initiated. After the joint investigation the matter will be referred back to the Office of Human Resources where administrative proceedings are initiated.

## **Residence Life and Housing**

The Office of Residence Life and Housing seeks to provide a residential learning community that is conducive to academic success, cultural, and social development through programming and service. Residence Life and Housing staff will respect and fulfill their responsibility to inform their respective supervisor of a reported sexual assault incident to ensure that support and resources are provided to the complainant. If a sexual assault incident happens in an on-campus residential facility, Residence Life and Housing staff must, (1) provide emotional support to the complainant to ensure they feel safe and inquire about bodily injury until the proper authorities arrive; and (2) contact SUPD and the Office of the Dean of Students regarding the matter.

## **Student Health Center**

All full- and part-time undergraduate students, and all full-time graduate students, are assessed a health services fee that grants them access to the Baranco-Hill Student Health Center. The health services fee entitles students to physician's visits and to medications stocked by the pharmacy at the Student Health Center. Office staff consists of physicians, registered nurses, licensed practical nurses, a pharmacist, an insurance coordinator, and a secretary. Each student's current identification card must be presented upon request for services. The Student Health Center will provide intermediately services, if needed, to complainants until they can be transported to Baton Rouge Women's Hospital.

## **University Counseling Center**

The University Counseling Center (UCC) serves as the primary mental health agency for the Southern University community. Services include but are not limited to addressing any psychological, emotional, and/or social problems arising from the sexual assault. When appropriate, the UCC will refer victims to additional resources to best meet the identified needs of the victim. The UCC provides services that promote a balance of physical, emotional, social, intellectual and spiritual health. The UCC encourages students to respect the dignity and rights of others, while developing a strong sense of personal self-esteem and development.

## **Office of Disability Services**

The Office of Disability Services (ODS), under the auspices of the University Counseling Center, assists students in meeting their unique academic/educational, personal, vocational and social needs that would otherwise prove to be an obstacle to educational pursuits. The office is committed to the advocacy and promotion of providing accommodations to students with diverse needs and backgrounds, whether on a temporary or permanent basis. ODS provides confidential services to those students who, in this post-secondary setting, must request and provide the necessary documentation to verify a special needs request. Academic accommodations are made on the basis of student's documented disabilities or needs.

## **Office of Academic Affairs**

The academic consequences of sexual assault on a campus can be significant. Poor attendance and the inability to study can result in lower grades and, potentially, academic probation or dismissal. Some students may choose to suspend their studies or drop out entirely, thus losing their opportunity to obtain

an education and compromising their ability to pursue professional and personal goals. To facilitate the handling of this process, the Office of Academic Affairs will work with the Office of the Dean of Students to ensure confidentiality for both the complainant and the respondent as much as academic procedures allow. In the event academic accommodations are requested, the identity of the complainant or the respondent who is in need of academic relief will be made to the designated representative of the appropriate academic unit to facilitate the necessary academic relief, if necessary.

## Department of Athletics

The Department of Athletics seeks to provide equal opportunity for a diverse population through competitive programs that encourage integrity, personal development, leadership and teamwork at the highest level of academic and athletic excellence to its student athletes. This quest for academic excellence encompasses the University's mission teaching, research and service through strong academic support programs for student-athletes and through the participation of all student-athletes in community service activities which lead to the development of competent, civic-minded graduates. The Department of Athletics will collaborate with the Office of the Dean of Students to ensure that all student athletes are exposed to sexual assault awareness and prevention information. A representative from the Department of Athletics will serve on the SART for the purpose of assisting in the coordination of educational and training efforts.

## Center for Teaching and Learning Excellence

The Center for Teaching and Learning Excellence (CTLE) is dedicated to addressing student retention by providing a centralized advising center and academic improvement opportunities for first year learners. This includes continuing students, re-entry students, and transfer students who have achieved 36 student credit hours or less. Additionally, CTLE offers professional development opportunities that reflect the best practices in the scholarship of teaching and learning for undergraduate education. Through the advancement of learner empowerment, effective advisement, and scholarly teaching, CTLE supports the university's mission to provide high quality educational opportunities for all students. By focusing on both students and faculty, CTLE effectively assists with closing the loop between teaching effectiveness and learner performance. CTLE will collaborate with the Office of the Dean of Students to ensure that all incoming freshmen students are exposed to sexual assault awareness and prevention information. A representative from CTLE will serve on the SART for the purpose of assisting in the coordination of educational and training efforts.

# SEXUAL ASSAULT PROTOCOL

Any member of the SUBR campus community, guest, visitor or other interested party may report an alleged violation of the Gender-Based Sexual Misconduct Policy. Complaints must be in writing and submitted within one hundred and twenty (120) days following the date of the alleged incident of sexual misconduct to the Title IX Coordinator or their designee. While SUBR is firmly committed to protecting all students from harassment or discrimination in education programs and/or activities, failure to file a timely complaint may adversely affect the ability of SUBR to take appropriate actions.

## Reporting to Law Enforcement and the University

A complainant who is at least seventeen (17) years of age and a student at SUBR may choose to report a sexual assault incident to SUPD, and/or may choose to obtain a forensic medical examination and request that the incident not be reported to SUPD.

- When a sexual assault is reported, the first responders will include an SUPD officer and a representative from the Office of the Dean of Students/Title IX. If SUPD receives the call first, they must immediately notify a representative from the Office of the Dean of Students/Title IX. The complainant will first receive information explaining the immediate options that are available

to them for pursuing criminal charges and the University judicial process. Complainants that wish to pursue reporting of the crime via law enforcement are given immediate medical services for the purpose of collecting evidence and obtaining treatment for possible injuries or infections. The complainant will also be offered a victim's advocate at this time. The victim's advocate may accompany the victim during this process.

- If the complainant would like to pursue a criminal investigation, an SUPD officer will escort the complainant to Baton Rouge Women's Hospital for examination from a Sexual Assault Nurse Examiner (SANE). The SANE should obtain a preliminary history from the SUPD officer. Sexual assault forensic exams (SAFE) are performed up to 96 hours post-assault. If a complainant presents for an examination more than 96 hours post-assault, the complainant will be given medical services, but a SAFE will not be performed.
- After completion of the exam, the SANE will prepare a SAFE report. The SAFE report will include a patient history, photo documentation, and the collection of appropriate physical evidence. The complainant will also be educated regarding sexually transmitted diseases, HIV, and pregnancy. The SANE will address medical needs and provide referrals for follow-up. The complainant will receive information about the resources that cater to aiding the recovery of sexual assault victims.
- The SANE will notify SUPD to transport the SAFE kit and/or clothing samples for storage under the patient's name. The SANE should discuss the findings of the forensic medical examination with the officer and provide copies of the medical record along with appropriate release forms and chain of custody. SUPD will abide by their existing policy in the transport and storage of the evidence. The evidence will be kept refrigerated in a secured location for the period of at least 30 days. In the event a criminal charge is filed, the evidence will be kept beyond this period according to SUPD's policy regarding the storage of evidence, and the District Attorney's policy for the retention of evidence.
- The role of SUPD is to conduct a criminal investigation. SUPD will also address the immediate safety needs of the complainant. In general, a criminal investigation will identify possible suspect(s) and witnesses, document the crime scene, and collect evidence. Police may conduct interviews with the complainant, suspect(s), and witnesses. A criminal investigation may also include arresting a suspect upon probable cause, obtaining search warrants to collect physical evidence from a suspect, and assessing the need for additional follow-up investigation. SUPD will prepare and submit reports and remain available for testimony pursuant to departmental policy. It is important to note that the SUPD investigation and University investigation are two separate processes, but the two entities work together to ensure the safety of the campus community.
- For the purpose of the University investigation, complaints will be assigned to the Title IX Coordinator, who will investigate the allegation(s). If the allegation is between a student and an employee, a representative from the Office of Human Resources will be brought in to assist with the investigation. Following an initial investigation, a preliminary meeting will be held with the respondent to review the complaint and other information gathered. Following the initial investigation, the SART may be called together to review the case to determine if there is significant evidence to warrant a charge for violating University policy.
- For students, after the complaint is investigated and there is sufficient evidence to warrant a charge for a violation of the *Student Code of Conduct*, the University judicial process is initiated. The Office of the Dean of Students will administer the University judicial process in accordance with the *Student Code of Conduct*. For matters involving an employee, the procedures outlined in the Handbook of University Personnel will be followed by the Office of Human Resources.

## Reporting to the University Only

A complainant who is at least seventeen (17) years of age and a student at SUBR will be encouraged to obtain a free forensic medical examination regardless of whether the incident is reported to law enforcement.

- In the case where the complainant does not want a criminal investigation, the first responder will be a representative from the Office of the Dean of Students/Title IX. The complainant will receive information regarding their immediate options for an investigation via University procedures. The complainant will also be offered a victim's advocate at this time. The victim's advocate may accompany the complainant during this process.
- The complainant will also be urged to visit Baton Rouge Women's Hospital for a SAFE and given notice that evidence collected from a non-reporting adult will be held anonymously for the period of 30 days and then destroyed. If the student chooses to, the student will then be directed to Baton Rouge Women's Hospital for medical exam from a SANE. A SAFE is performed up to 96 hours post-assault. If a complainant presents for an examination more than 96 hours post-assault, the complainant will be given medical services, but a SAFE will not be performed.
- After completion of the exam, the SANE will prepare a SAFE report. Such examination will include a patient history, photo documentation, and the collection of appropriate physical evidence. The complainant will also be educated regarding sexually transmitted diseases, HIV, and pregnancy. The SANE will address medical needs and provide referrals for follow-up. The complainant will receive information about the resources that cater to aiding the recovery of sexual assault victims.
- The SANE will contact SUPD to transport the SAFE kit and/or clothing samples for storage, using only a confidential number and not the patient's name. The SUPD will assign a case number that will serve as a confidential number to track the evidence obtained from the patient. The confidential number assigned to the patient by SUPD will be recorded in the patient's medical chart by the SANE or health care provider. SUPD will abide by their existing policy in the storage of refrigerated samples in a secure area for 30 days.
- If the complainant has chosen not to report to law enforcement within 30 days of the date the sample is logged into their system, SUPD will abide by their existing policy on the destruction of evidence and may dispose of the evidence collected. If and when a complainant chooses to report the incident to SUPD, SUPD will conduct the complainant interview at the agency's facility.
- For the purpose of the University investigation, complaints will be assigned to the Title IX Coordinator, who will investigate the allegation(s). If the allegation is between a student and an employee, a representative from the Office of Human Resources will be brought in to assist with the investigation. Following an initial investigation, a preliminary meeting will be held with the Respondent to review the complaint and other information gathered. Following the initial investigation, the SART may be called together to review the case to determine if there is significant evidence to warrant a charge for violating University policy.
- For students, after the complaint is investigated and there is sufficient evidence to warrant a charge for a violation of the *Student Code of Conduct*, the University judicial process is initiated. The Office of the Dean of Students will administer the University judicial process in accordance with the *Student Code of Conduct*. For matters involving an employee, the procedures outlined

in the Handbook of University Personnel will be followed by the Office of Human Resources.

## TRAINING AND COORDINATION

### Education

A campus educational program will be facilitated by the Office of the Dean of Students and will include a campus-wide awareness campaign will educate students on the seriousness of violence, including crimes such as sexual assault, date rape, domestic violence, and stalking, and the legal consequences both at the state and university judicial levels. All first-time students to the University will be exposed to prevention methods, educational awareness and university policy and procedures concerning violence against women. Students will be presented information on how to report assaults and University and legal procedures concerning an assault.

Education and training will be provided for University faculty and staff in coordination with the Office of Human Resources. The University Judicial Committee will receive specialized training in coordination with the Center for Social Research. Training topics will include information on the causes and effects of violence; a review of the *Student Code of Conduct*; definitions of domestic violence, dating violence, sexual assault, and stalking; how to judge credibility, drug facilitated sexual assault; and sanctions against student perpetrators.

### Program Review

The SART will meet twice annually (one meeting during each the fall and spring semesters) to discuss practices and to review protocol, to ensure ongoing communication and training efforts are conducted, and, to ensure coordinated resources are provided in response to sexual assault incidents. This is in an effort to more effectively address the problem of violence and to send a clear message to the general University population that such offenses will not be tolerated by anyone. As part of the program evaluation process, current cases will be reviewed to ensure consistency in the process of handling reported and non-reported sexual assault cases. The purpose of the review is to increase the overall effectiveness by ensuring that the process is followed according to policy, reports are filled out according to policy, assessing staff training needs, considering adjustments needed to paperwork or process, troubleshooting for potential problems, and identifying trends in presenting issues of victims.

# APPENDIX I: RESPONDING TO SEXUAL ASSAULT

Victims of sexual assault should be instructed to do the following immediately after a sexual assault:

- Find a safe location away from the perpetrator. Ask a trusted friend to be with you for moral support.
- Preserve all evidence of the attack.
  - Do not bathe, wash your hands, brush your teeth, eat, or smoke.
  - If you are still in the location at which the crime occurred, do not clean or straighten up or remove anything.
  - Write down all the details you can recall about the attack and the perpetrator.
- Report the attack to law enforcement immediately (campus police can be reached at (225) 771-2770).
- Seek medical care as soon as possible.
- Recognize that healing from an attack takes time. Give yourself the time you need and know that it is never too late to get help.

## Receiving Medical Attention

In the immediate aftermath of a sexual assault, the most important thing is for the victim to get to a safe place. Whether it is the victim's dormitory room, a friend's room or with a staff member, immediate safety is what matters most. When a feeling of safety has been achieved, it is vital for the victim to receive medical attention, regardless of his or her decision to report the crime.

For the victim's health and self-protection, it is important to be checked and treated for possible injuries, even if none are visible. This includes testing for HIV and other sexually transmitted infections (STIs), as well as receiving preventative treatments that may be available, depending upon the local response and resources. For instance, medications to prevent STIs and pregnancy and protect against HIV transmission may be offered.

In addition to receiving medical attention, victims are encouraged to receive a forensic examination. This exam is important because preserving DNA evidence can be key to identifying the perpetrator in a sexual assault case, especially those in which the offender is a stranger. DNA evidence is an integral part of a law enforcement investigation that can build a strong case to show that a sexual assault occurred and to show that the defendant is the source of biological material left on the victim's body. Victims have the right to accept or decline any or all parts of the exam, however, it is important to remember that critical evidence may be missed if not collected or analyzed. Victims should make every effort to save anything that might contain the perpetrator's DNA, therefore a victim should not:

- Bathe or shower
- Use the restroom
- Change clothes
- Comb hair
- Clean up the crime scene
- Move anything the offender may have touched

Even if the victim has not yet decided to report the crime, receiving a forensic medical exam and keeping the evidence safe from damage will improve the chances that the police can access and test the stored evidence at a later date

## Preserving and Collecting Forensic Evidence

Preserving DNA evidence can be key to identifying the perpetrator in a sexual assault case, especially those in which the offender is a stranger. DNA evidence is an integral part of a law enforcement investigation that can build a strong case to show that a sexual assault occurred and to show that the defendant is the source of biological material left on the victim's body.

### **What does a forensic medical exam entail?**

A forensic medical exam may be performed at a hospital or other healthcare facility. This exam is complex and on average, takes 3-4 hours. While this may seem lengthy, medical and forensic exams are comprehensive because the victim deserves and needs special attention to ensure that they are medically safe and protected. In addition, it is important to collect evidence so that if the victim chooses to report the crime to the police, they can access the stored evidence.

- To start, the medical professional will write down the victim's detailed history. This sets a clear picture of existing health status, including medications being taken and preexisting conditions unrelated to the assault.
- Next there is a head-to-toe, detailed examination and assessment of the entire body (including an internal examination). *(This may include collection of blood, urine, hair and other body secretion samples, photo documentation of injuries (such as bruises, cuts and scraped skin), collection of clothing (especially undergarments).)*
- Finally, the medical professional will speak about treatment for sexually transmitted infections (STIs) that may have been exposed during the assault. *(Depending on the hospital and state, the victim may receive prophylaxis as well as referrals for follow-up counseling, community resources and medical care.)*

NOTE: The victim has the right to accept or decline any or all parts of the exam. However, it is important to remember that critical evidence may be missed if not collected or analyzed.

After the forensic medical exam is performed and the evidence is collected and stored in the kit, the victim will be able to take a shower, brush their teeth, etc. — all while knowing that the evidence has been preserved to aid in a criminal prosecution if so desired.

### **What is a "SAFE kit?"**

The sexual assault forensic exam kit (commonly referred to as a "SAFE kit") is the collection of DNA and other forensic evidence, which is then kept by the medical provider until picked up by law enforcement or the crime lab. It is then stored until the victim determines whether or not to pursue a case. The kit itself is generally a large cardboard box, which can safely store evidence collected from a victim's body or clothing. The contents of a sexual assault forensic exam includes items, such as:

- Instructions
- Bags and sheets for evidence collection
- Swabs
- Comb
- Envelopes for hair and fibers
- Blood collection devices
- Documentation forms

Under the Violence Against Women and Department of Justice Reauthorization Act of 2005, states may not *"require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for charges incurred on account of such an exam, or both."*

Under this law, a state must ensure that victims have access to an exam free of charge or with a full reimbursement, even if the victim decides not to cooperate with law enforcement investigators.

(Previously, states were required to ensure access to exams free of charge, but could put conditions on the exam, such as cooperating with law enforcement officials.)

Essentially, this law allows victims time to decide whether to pursue their case. A sexual assault is a traumatic event and some victims are unable to decide in the immediate aftermath. Because forensic evidence can be lost as time progresses, A “Jane Doe Rape Kit” enables a victim to have forensic evidence collected without revealing identifying information. For instance, in some states, victims are given a code number they can use to identify themselves if they choose to report the crime at a later date.

Each state has determined different time frames for the storage of a kit. In Louisiana this time is 30 days. The victim should be informed at the time of the exam as to the length of time the kit will be retained, as well as the disposition of the kit.

Processing the evidence collected may take only a few weeks, but many areas of the country have significant backlogs. So the wait to have evidence tested could range from a few weeks to a few months, or even longer.

(Source: Rape, Abuse and Incest National Network – [www.rainn.org](http://www.rainn.org))

# APPENDIX II: LOUISIANA'S CRIME VICTIM BILL OF RIGHTS

Louisiana's Crime Victim Bill of Rights illustrates victim's rights. To access these rights, victims must file a Victim Notice and Registration Form with the arresting law enforcement agency, the clerk of court, or the prosecuting agency that has jurisdiction over the case. By registering, victims are also entitled to write and submit a Victim Impact Statement. For victims to have these Statutory Rights, the defendant must be charged with any homicide, felony crime of violence, vehicular negligent injuring, first-degree vehicular negligent injuring, sexual offense, or an attempt thereof.

## **Crime Victims Bill of Rights**

The right to reasonable notice and to be present and heard during all critical stages of pre-conviction and post-conviction proceedings.

- The right to be informed upon the release from custody of the escape of the accused or the offender.
- The right to confer with the prosecution prior to final disposition of the case.
- The right to refuse to be interviewed by the accused or a representative of the accused.
- The right to review and comment upon the pre-sentence report prior to imposition of sentencing.
- The right to seek restitution.
- The right to a reasonably prompt conclusion to the case.

## **Victim Notice and Registration Form**

All parts of the criminal justice system are required to provide information to victims who request notification. To ensure the right to this notification, victims must file the Louisiana Victim Notice and Registration Form with the court. This form serves two purposes: notification and eligibility for rights as a victim of crime under Louisiana Crime Victims' Bill of Rights. If there is an arrest and a victim fills out the form, they have the right to be informed upon the release from custody or the escape of the defendant. To continue to be informed about court proceedings, case status, or defendant status, a victim must ensure that law enforcement, the prosecution, and the Louisiana Department of Corrections have their current contact information.

## **Victim Impact Statement**

A Victim Impact Statement is a written or verbal statement by the victim concerning the impact that the crime has had on the victim, family members, friends and associates.

(Source: **Constitution - Article I, § 25 – Declaration of Rights**)

# APPENDIX III: CLERY ACT OVERVIEW

## Introduction

The “Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998,” commonly referred to as the “Clery Act,” requires institutions of higher education receiving federal financial aid to report specified crime statistics on college campuses and to provide other safety and crime information to members of the campus community. This compliance manual provides guidance to Southern University employees who have responsibilities under the Act. Each campus will be responsible for establishing appropriate procedures for implementing these guidelines. The University provides crime information and statistics to the public in a variety of ways. In addition to the Clery Act, the University provides crime statistics that are classified pursuant to the Uniform Crime Reporting (UCR) Program administered by the FBI.

## Background

The current Clery Act is the latest iteration of a law first passed by Congress in 1990 as part of the Higher Education Act, the “Student Right-To-Know and Campus Security Act of 1990.” Amendments enacted in 1998 renamed the “Student Right-to-Know and Campus Security Act” as the “Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act,” expanded the campus responsibilities for recording crime statistics, added people from whom colleges must collect statistics, and revised reporting methods and deadlines. The Department of Education regulations implementing the 1998 amendments to the Clery Act were adopted November 1, 1999, and became effective July 1, 2000. The 1999 regulations define and clarify reporting obligations for various geographic locations, clarify the responsibilities of counselors, add new categories of crimes to be reported and new policies to be disclosed, clarify how to compile and describe crime statistics, change the date for disclosure of the Annual Security Report to October 1, and require certain institutions including the Southern University at baton Rouge (SUBR) to maintain a publicly available crime log.

## Clery Act Requirements

The Clery Act includes the following general substantive requirements:

### 1. Publication of Annual Security Report

Campuses must publish an annual security report detailing statistics regarding crimes committed on campus and at affiliated locations for the previous three calendar years, and describing specified policies, procedures, and programs regarding safety and security. The act is part of the “consumer information” provisions of the Higher Education Act implementing federal student aid programs. The 1994 regulations note that “Encouraging students to pursue high quality postsecondary education is an important element of the National Education Goals; a safe campus environment facilitates such education.” The Clery Act is intended to provide students and their families, as higher education consumers, with accurate, complete, and timely information about the safety of the campus so that they can make informed decisions.

The Department of Education is authorized to impose fines on an educational institution that “substantially misrepresents the nature of its educational program.” It may also “limit, suspend, or terminate the institution’s participation in federal financial aid programs.” The Department defines as “misrepresentation” any “false, erroneous, or misleading statement made to a student or prospective student, to the family of an enrolled or prospective student, or to the Department,” including misrepresentation regarding any matters required to be disclosed to prospective students under 34 CFR 668.44 (institutional information) and 34 CFR 668.47 (campus security information). The Act requires the collection and reporting of annual crime statistics reflecting reports of specified crimes that occur on and adjacent to, a

university campus and certain properties associated with the campus. Campuses must also provide a geographic breakdown of the crime statistics reported according to the following defined geographic areas: “on campus” (including a further breakdown of the number of crimes that occurred in campus student residential facilities), “in or on a non-campus building or property,” and “on public property.”

## **2. Disclosure of Campus Safety Policies**

The Annual Security Report must describe specified campus policies concerning:

- reporting criminal activity or other emergencies occurring on campus;
- security, maintenance of, and access to campus facilities;
- authority of campus law enforcement units;
- monitoring and recording through local police agencies of off campus criminal activity by students; and
- alcohol and drugs.

In addition, the report must describe:

- the type and frequency of campus programs to inform students and employees about campus security procedures and precautions, and the prevention of crimes;
- available drug and alcohol abuse prevention education programs;
- campus programs to prevent sexual assaults, including procedures to be followed when such an assault occurs; and
- where law enforcement agency information concerning registered sex offenders may be obtained.

## **3. Compilation and Disclosure of Campus Crime Statistics**

The Act requires the collection and reporting of annual crime statistics reflecting reports of specified crimes that occur on, and adjacent to, campus and certain properties associated with the campus. This statistical compilation must be broken down by specified types of crimes and campus disciplinary referrals, and must indicate if a crime is a hate crime. The University must also separately report crime statistics for the following defined geographic areas: “on campus” (including a further breakdown of crimes that occurred in campus student residential facilities), “in or on a non-campus building or property,” and “on public property.”

## **4. Timely Warning Requirements**

The campus is required to report to the campus community crimes that represent a threat to students and/or employees “in a manner that is timely and will aid in the prevention of similar crimes.”

## **5. Disclosure of Crime Log Information**

Campuses that maintain a police department are required to maintain a daily crime log that contains specified information about any and all crimes that occur within the patrol jurisdiction of the campus police and that are reported to the campus police department. Information that would jeopardize the success of an investigation or the safety of a person involved in the investigation may be withheld. The campus must make the crime log for the most recent 60-day period open to public inspection during normal business hours, while crime logs containing material more than 60 days old must be retained for seven years for public inspection upon two days’ notice.

(Source: US Department of Education - [www.securityoncampus.org](http://www.securityoncampus.org))

# APPENDIX IV: LOUISIANA SEX CRIME STATUTES

## La R.S. 14:41 RAPE AND SEXUAL BATTERY

### §41. Rape; defined

- A. Rape is the act of anal, oral, or vaginal sexual intercourse with a male or female person committed without the person's lawful consent.
- B. Emission is not necessary, and any sexual penetration, when the rape involves vaginal or anal intercourse, however slight, is sufficient to complete the crime.
- C. For purposes of this Subpart, "oral sexual intercourse" means the intentional engaging in any of the following acts with another person:
  - (1) The touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender.
  - (2) The touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim.

## La R.S. 14:42 AGGRAVATED RAPE

### §42. Aggravated rape

- A. Aggravated rape is a rape committed upon a person sixty-five years of age or older or where the anal, oral, or vaginal sexual intercourse is deemed to be without lawful consent of the victim because it is committed under any one or more of the following circumstances:
  - (1) When the victim resists the act to the utmost, but whose resistance is overcome by force.
  - (2) When the victim is prevented from resisting the act by threats of great and immediate bodily harm, accompanied by apparent power of execution.
  - (3) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon.
  - (4) When the victim is under the age of thirteen years. Lack of knowledge of the victim's age shall not be a defense.
  - (5) When two or more offenders participated in the act.
  - (6) When the victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing such resistance.
- B. For purposes of Paragraph (5), "participate" shall mean:
  - (1) Commit the act of rape.
  - (2) Physically assist in the commission of such act.
- C. For purposes of this Section, the following words have the following meanings:
  - (1) "Physical infirmity" means a person who is a quadriplegic or paraplegic.
  - (2) "Mental infirmity" means a person with an intelligence quotient of seventy or lower.
- D. Whoever commits the crime of aggravated rape shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.
  - (1) HOWEVER, IF THE VICTIM WAS UNDER THE AGE OF THIRTEEN YEARS, AS PROVIDED BY PARAGRAPH A(4) OF THIS SECTION:
    - i. And if the district attorney seeks a capital verdict, the offender shall be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence, in accordance with the determination of the jury. The provisions of C.Cr.P. Art. 782 relative to cases in which punishment may be capital shall apply.
    - ii. And if the district attorney does not seek a capital verdict, the offender shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. The provisions of C.Cr.P. Art. 782 relative to cases in which punishment is necessarily confinement at hard labor shall apply.

## **La R.S. 14:42.1 FORCIBLE RAPE**

### **§42.1. Forcible rape**

- A. Forcible rape is rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of the victim because it is committed under any one or more of the following circumstances:
- (1) When the victim is prevented from resisting the act by force or threats of physical violence under circumstances where the victim reasonably believes that such resistance would not prevent the rape.
  - (2) When the victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by a narcotic or anesthetic agent or other controlled dangerous substance administered by the offender and without the knowledge of the victim.
- B. Whoever commits the crime of forcible rape shall be imprisoned at hard labor for not less than five nor more than forty years. At least two years of the sentence imposed shall be without benefit of probation, parole, or suspension of sentence.

## **La R.S. 14:43 SIMPLE RAPE**

### **§43. Simple rape**

- A. Simple rape is a rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of a victim because it is committed under any one or more of the following circumstances:
- (1) When the victim is incapable of resisting or of understanding the nature of the act by reason of a stupor or abnormal condition of mind produced by an intoxicating agent or any cause and the offender knew or should have known of the victim's incapacity.
  - (2) When the victim is incapable, through unsoundness of mind, whether temporary or permanent, or understanding the nature of the act and the offender knew or should have known of the victim's incapacity.
  - (3) When the female victim submits under the belief that the person committing the act is her husband and such belief is intentionally induced by any artifice, pretense, or concealment practiced by the offender.
- C. Whoever commits the crime of simple rape shall be imprisoned, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than twenty-five years.

## **La R.S. 14:43.1 SEXUAL BATTERY**

### **§43.1. Sexual battery**

- A. Sexual battery is the intentional engaging in any of the following acts with another person where the offender acts without the consent of the victim, or where the act is consensual but the other person, who is not the spouse of the offender, has not yet attained fifteen years of age and is at least three years younger than the offender:
- (1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender; or
  - (2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.
- B. Lack of knowledge of the victim's age shall not be a defense. However, where the victim is under seventeen, normal medical treatment or normal sanitary care of an infant shall not be construed as an offense under the provisions of this Section.
- C. (1) Whoever commits the crime of sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.
- (2) Whoever commits the crime of sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

- (3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.
- (4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.
- (5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.
- (6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines, which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

### **La R.S. 14:43.2 AGGRAVATED SEXUAL BATTERY**

#### **§43.2. Second-degree sexual battery**

- A. Second degree sexual battery is the intentional engaging in any of the following acts with another person when the offender intentionally inflicts serious bodily injury on the victim:
  - (1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender; or
  - (2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.
- B. For the purposes of this Section, serious bodily injury means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.
- C. (1) Whoever commits the crime of second degree sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than fifteen years.  
(2) Whoever commits the crime of second degree sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.  
(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.  
(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.  
(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.  
(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

### **La R.S. 14:43.3 ORAL SEXUAL BATTERY**

#### **§43.3. Oral sexual battery**

A. Oral sexual battery is the intentional engaging in any of the following acts with another person, who is not the spouse of the offender when the other person has not yet attained fifteen years of age and is at least three years younger than the offender:

- (1) The touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender; or
- (2) The touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim.

B. Lack of knowledge of the victim's age shall not be a defense.

C.(1) Whoever commits the crime of oral sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.

- (2) Whoever commits the crime of oral sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.
- (3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.
- (4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.
- (5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.
- (6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

## **La R.S. 14:80 FELONY CARNAL KNOWLEDGE OF A JUVENILE**

### **§80. Felony carnal knowledge of a juvenile**

A. Felony carnal knowledge of a juvenile is committed when:

- (1) A person who is seventeen years of age or older has sexual intercourse, with consent, with a person who is thirteen years of age or older but less than seventeen years of age, when the victim is not the spouse of the offender and when the difference between the age of the victim and the age of the offender is four years or greater; or
- (2) A person commits a second or subsequent offense of misdemeanor carnal knowledge of a juvenile, or a person who has been convicted one or more times of violating one or more crimes for which the offender is required to register as a sex offender under R.S. 15:542 commits a first offense of misdemeanor carnal knowledge of a juvenile.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

D. Whoever commits the crime of felony carnal knowledge of a juvenile shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both, provided that the

defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

## **La R.S. 14:80.1 MISDEMEANOR CARNAL KNOWLEDGE OF A JUVENILE**

### **§80.1. Misdemeanor carnal knowledge of a juvenile**

- A. Misdemeanor carnal knowledge of a juvenile is committed when a person who is seventeen years of age or older has sexual intercourse, with consent, with a person who is thirteen years of age or older but less than seventeen years of age, when the victim is not the spouse of the offender, and when the difference between the age of the victim and age of the offender is greater than two years, but less than four years.
- B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.
- C. Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.
- D. Whoever commits the crime of misdemeanor carnal knowledge of a juvenile shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.
- E. The offender shall be eligible to have his conviction set aside and his prosecution dismissed in accordance with the appropriate provisions of the Code of Criminal Procedure.
- F. The offender shall not be subject to any of the provisions of law which are applicable to sex offenders, including but not limited to the provisions which require registration of the offender and notice to the neighbors of the offender.

## **La R.S. 14:81 INDECENT BEHAVIOR WITH JUVENILES**

### **§81. Indecent behavior with juveniles**

- A. Indecent behavior with juveniles is the commission of any of the following acts with the intention of arousing or gratifying the sexual desires of either person:
  - (1) Any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons. Lack of knowledge of the child's age shall not be a defense; or
  - (2) The transmission of an electronic textual communication or an electronic visual communication depicting lewd or lascivious conduct, text, or images to any person reasonably believed to be under the age of seventeen and reasonably believed to be at least two years younger than the offender. It shall not be a defense that the person who actually receives the transmission is not under the age of seventeen.
- B. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.
- C. For purposes of this Section, the following words have the following meanings:
  - (1) "Electronic textual communication" means a textual communication made through the use of a computer on-line service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or on-line messaging service.
  - (2) "Electronic visual communication" means the communication of a visual image made through the use of a computer on-line service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or on-line messaging service.
- D. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, free over-the-air television broadcast station, an Internet provider, or commercial on-line service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial on-line services.
- E. An offense committed under this Section and based upon the transmission and receipt of electronic textual or visual communications may be deemed to have been committed where the electronic communication was originally sent, originally received, or originally viewed by any person.

F. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

G. Any evidence resulting from the commission of a crime under this Section shall constitute contraband.

H. (1) Whoever commits the crime of indecent behavior with juveniles shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than seven years, or both, provided that the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

(2) Whoever commits the crime of indecent behavior with juveniles on a victim under the age of thirteen when the offender is seventeen years of age or older, shall be punished by imprisonment at hard labor for not less than two nor more than twenty-five years. At least two years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

## **La R.S. 14:81.2 MOLESTATION OF A JUVENILE**

### **§81.2. Molestation of a juvenile**

A. Molestation of a juvenile is the commission by anyone over the age of seventeen of any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons, with the intention of arousing or gratifying the sexual desires of either person, by the use of force, violence, duress, menace, psychological intimidation, threat of great bodily harm, or by the use of influence by virtue of a position of control or supervision over the juvenile. Lack of knowledge of the juvenile's age shall not be a defense.

B. Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than ten years, or both; the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

C. Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, and when the offender has control or supervision over the juvenile, shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than twenty years, or both the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with Code of Criminal Procedure Article 893.

D. (1) Whoever commits the crime of molestation of a juvenile when the incidents of molestation recur during a period of more than one year shall, on first conviction, be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not less than five nor more than forty years, or both. At least five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence. After five years of the sentence have been served, the offender, who is otherwise eligible, may be eligible for parole if a licensed psychologist or a licensed clinical social worker or a board-certified psychiatrist, after psychological examination, including testing, approves.

(2) Conditions of parole shall include treatment in a qualified sex offender program for a minimum of five years, or until expiration of sentence, whichever comes first. The state shall be responsible for the cost of testing but the offender shall be responsible for the cost of the treatment program. It shall also be a condition of parole that the offender be prohibited from being alone with a child without the supervision of another adult.

(3) For purposes of this Subsection, a "qualified sex offender program" means one which includes both group and individual therapy and arousal reconditioning. Group therapy shall be conducted by two therapists, one male and one female, at least one of whom is licensed as a psychologist or is board certified as a psychiatrist or clinical social worker.

(4) Repealed by Acts 2006, No. 36, §2.

E.(1) Whoever commits the crime of molestation of a juvenile when the victim is under the age of thirteen years shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

- (2) Upon completion of the term of imprisonment imposed in accordance with Paragraph (1) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.
- (3) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.
- (4) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to, the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.
- (5) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

## **La R.S. 14:89 CRIME AGAINST NATURE**

### **§89. Crime against nature**

#### **A. Crime against nature is:**

- (1) The unnatural carnal copulation by a human being with another of the same sex or opposite sex or with an animal, except that anal sexual intercourse between two human beings shall not be deemed as a crime against nature when done under any of the circumstances described in R.S. 14:41, 14:42, 14:42.1 or 14:43. Emission is not necessary; and, when committed by a human being with another, the use of the genital organ of one of the offenders of whatever sex is sufficient to constitute the crime.
- (2) The solicitation by a human being of another with the intent to engage in any unnatural carnal copulation for compensation.

B. Whoever violates the provisions of this Section shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

## **La R.S. 14:89.1 AGGRAVATED CRIME AGAINST NATURE**

### **§89.1. Aggravated crime against nature**

#### **A. Aggravated crime against nature is crime against nature committed under any one or more of the following circumstances:**

- (1) When the victim resists the act to the utmost, but such resistance is overcome by force;
- (2) When the victim is prevented from resisting the act by threats of great and immediate bodily harm accompanied by apparent power of execution;
- (3) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon; or
- (4) When through idiocy, imbecility, or any unsoundness of mind, either temporary or permanent, the victim is incapable of giving consent and the offender knew or should have known of such incapacity;
- (5) When the victim is incapable of resisting or of understanding the nature of the act, by reason of stupor or abnormal condition of mind produced by a narcotic or anesthetic agent, administered by or with the privity of the offender; or when he has such incapacity, by reason of a stupor or abnormal condition of mind from any cause, and the offender knew or should have known of such incapacity; or
- (6) When the victim is under the age of seventeen years and the offender is at least three years older than the victim.

B. Whoever commits the crime of aggravated crime against nature shall be imprisoned at hard labor for not less than three nor more than fifteen years, such prison sentence to be without benefit of suspension of sentence, probation or parole.

### **La R.S. 14:93.5 SEXUAL BATTERY OF THE INFIRM**

#### **§93.5. Sexual battery of the infirm**

- A. Sexual battery of the infirm is the intentional engaging in any of the sexual acts listed in Subsection B with another person, who is not the spouse of the offender, when:
- (1) The offender compels the victim, who is physically incapable of preventing the act because of advanced age or physical infirmity, to submit by placing the victim in fear of receiving bodily harm.
  - (2) The victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by an intoxicating, narcotic, or anesthetic agent administered by or with the privity of the offender.
  - (3) The victim has such incapacity, by reason of a stupor or abnormal condition of mind from any cause, and the offender knew or should have known of the victim's incapacity.
  - (4) The victim is incapable, through unsoundness of mind, whether temporary or permanent; of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.
- B. For purposes of this Section, "sexual acts" mean the following:
- (1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender; or
  - (2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.
- C. Normal medical treatment and normal sanitary care shall not be construed as an offense under the provisions of this Section.
- D. Whoever commits the crime of sexual battery of the infirm shall be punished by imprisonment, with or without hard labor, for not more than ten years.

Source: Baton Rouge Sexual trauma awareness and response center - [brstar.org](http://brstar.org)

