

S.B. 123
CRIMINAL CODE RECODIFICATION

Senator **Todd D. Weiler** proposes the following amendments:

1. *Page 12, Lines 344 through 349:*

344 (1) It is not a defense to the crime of child kidnapping, a violation of Section
345 76-5-301.1; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation
346 of Section 76-5-402.3; sodomy on a child, a violation of Section 76-5-403.1; sexual abuse of a
347 child, a violation of Section [76-5-404.1] {~~76-5-404.3~~} 76-5-404.1 ; aggravated sexual abuse of a
child, a
348 violation of Subsection {~~76-5-404.1(4)~~} 76-5-404.3 ; or an attempt to commit any of these offenses,
that the
349 actor mistakenly believed the victim to be 14 years [of age] old or older at the time of the

2. *Page 80, Lines 2453 through 2462:*

2453 (2) The following are criminal homicide:
2454 (a) aggravated murder;
2455 (b) murder;
2456 (c) manslaughter;
2457 (d) child abuse homicide ;
2458 {~~(e) homicide;~~}
2459 {~~(f)~~} (e) homicide by assault;

2460 {~~(g)~~} (f) negligent homicide; and

2461 {~~(h)~~} (g) automobile homicide.

2462 [~~(3) A person~~] (3) Notwithstanding Subsection (2), an actor is not guilty of criminal

3. *Page 87, Lines 2666 through 2670:*

2666 (c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of
2667 aggravated murder, or alternatively, attempted aggravated murder, as described in this section,
2668 are proved beyond a reasonable doubt, and also finds {~~that introduced evidence in support of~~
an} the
2669 affirmative defense described in this Subsection (4) is not disproven beyond a reasonable
2670 doubt, the court shall enter a judgment of conviction as follows:

4. *Page 90, Lines 2762 through 2766:*

2762 (c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder,
2763 or alternatively, attempted murder, as described in this section are proved beyond a reasonable
2764 doubt, and also finds ~~{that introduced evidence in support of an}~~ ~~the~~ affirmative defense described
in
2765 this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment
2766 of conviction as follows: