

2025 Regular Session

SENATE BILL NO. 152

BY SENATOR MIZELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/PUNISHMENT. Provides relative to sentencing of defendants who are victims of domestic abuse, sexual assault, or human trafficking. (8/1/25)

AN ACT

To amend and reenact Code of Evidence Art. 412.4(A) and (B) and to enact Code of Evidence Art. 707, Code of Criminal Procedure Arts. 881(A)(5), 890.4, and 894.1(G), and R.S. 14:18.1, relative to sentencing; to provide relative to sentencing of defendants who are victims of certain crimes; to provide an affirmative defense for defendants who are victims of certain crimes; to provide for admissibility of evidence; to provide for sentencing and resentencing; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Evidence Art. 412.4(A) and (B) are hereby amended and reenacted and Code of Evidence Art. 707 is hereby enacted to read as follows:

Art. 412.4. Evidence of similar crimes, wrongs, or acts in domestic abuse cases and cruelty against juveniles cases; rebuttal of certain defenses

A.(1) When ~~an accused~~ a defendant is charged with a crime involving abusive behavior against a family member, household member, or dating partner or with acts ~~which constitute~~ constituting cruelty involving a victim who was under the age of seventeen at the time of the offense, evidence of the ~~accused's~~ defendant's

1 commission of another crime, wrong, or act involving assaultive behavior against a
 2 family member, household member, or dating partner or acts ~~which constitute~~
 3 **constituting** cruelty involving a victim who was under the age of seventeen at the
 4 time of the offense, may be admissible and may be considered for its bearing on any
 5 matter to which it is relevant, subject to the balancing test provided in Article 403.

6 **(2) When a defendant asserts the affirmative defense provided in R.S.**
 7 **14:18.1, evidence of the defendant's commission of any crime, wrong, or act**
 8 **involving assaultive behavior against the following is admissible and shall be**
 9 **considered for its bearing on rebutting that defense or on any matter to which**
 10 **it is relevant, subject to the balancing test provided in Code of Evidence Article**
 11 **403:**

12 **(a) The alleged perpetrator of the domestic abuse, sexual assault, or**
 13 **human trafficking against the defendant as provided in R.S. 14:18.1.**

14 **(b) Any family member, household member, or dating partner of the**
 15 **defendant.**

16 **(c) Any other person if the evidence is relevant for the purpose of**
 17 **rebutting the defense.**

18 B. ~~In a case in which~~ **If the state prosecution** intends to offer evidence under
 19 the provisions of **Subparagraph (A)(1) of this Article,** ~~the prosecution it~~ shall, upon
 20 request of the accused, provide reasonable notice in advance of trial of the nature of
 21 any such evidence it intends to introduce ~~at trial~~ for such purposes. **However, notice**
 22 **shall not be required prior to introducing evidence under the provisions of**
 23 **Subparagraph (A)(2) of this Article.**

24 * * *

25 **Art. 707. Expert testimony regarding victim of domestic violence, sexual**
 26 **assault, human trafficking, or trafficking of children for sexual**
 27 **purposes**

28 **A witness who is qualified as an expert pursuant to Article 702 may**
 29 **testify in the form of an opinion on whether a defendant is a victim of domestic**

1 violence, sexual assault, human trafficking, or trafficking of children for sexual
2 purposes and committed the crime charged as a direct result of being a victim.

3 Section 2. Code of Criminal Procedure Arts. 881.1(A)(5), 890.4, and 894.1(G) are
4 hereby enacted to read as follows:

5 Art. 881.1. Motion to reconsider sentence

6 A.

7 * * *

8 (5) Notwithstanding any other provision of law to the contrary, a
9 defendant who meets the criteria set forth in Article 890.4(A) may file a motion
10 to reconsider sentence at any time before August 1, 2028. In determining
11 whether to order an evidentiary hearing, the court shall use the same standard
12 as provided in Article 930. An evidentiary hearing shall not be ordered if the
13 state and the defendant agree on the factual basis for the motion.

14 * * *

15 Art. 890.4. Sentencing of defendants who are victims of domestic abuse, sexual
16 assault, human trafficking, or trafficking of children for sexual
17 purposes

18 A.(1) Notwithstanding any other provision of law to the contrary, a
19 defendant shall be sentenced in accordance with Paragraph B of this Article if
20 all of the following are established by clear and convincing evidence:

21 (a) The defendant is a victim of domestic abuse, sexual assault, human
22 trafficking, or trafficking of children for sexual purposes.

23 (b) There was a rational, causal, and temporally proximate connection
24 between the offense committed by the defendant and the defendant's
25 victimization.

26 (c) Domestic abuse, sexual assault, human trafficking, or trafficking of
27 children for sexual purposes was a significant contributing factor in the
28 defendant's participation in the instant offense.

29 (d) Either:

1 (i) The victim of the instant offense is the same person who perpetrated
2 domestic abuse, sexual assault, human trafficking, or trafficking of children for
3 sexual purposes against the defendant.

4 (ii) The perpetrator of domestic abuse, sexual assault, human trafficking,
5 or trafficking of children for sexual purposes against the defendant compelled
6 the defendant's participation in the commission of the instant offense using
7 fraud, force, or coercion, as defined in R.S. 14:46.2.

8 (e) The defendant is not charged with a crime that will require him to
9 register as a sex offender if convicted.

10 (f) The defendant is not charged with an attempt or conspiracy to
11 commit an offense that would require him to register as a sex offender if
12 convicted.

13 (2) The provisions of Subsubparagraph (A)(1)(c)(ii) of this Article shall
14 only apply to cases in which the perpetrator of domestic abuse, sexual assault,
15 human trafficking, or trafficking of children for sexual purposes against the
16 defendant was a principal to the instant offense, as defined by R.S. 14:24,
17 regardless of whether he was arrested or charged with the instant offense.

18 B. If a defendant meets the criteria set forth in Subparagraph A(1) of
19 this Article, he shall be sentenced as follows:

20 (a) A sentence of death shall not be reduced.

21 (b) A sentence of life imprisonment with hard labor shall be reduced to
22 imprisonment for not less than ten years nor more than fifty years, with hard
23 labor.

24 (c) Any other term of imprisonment shall not exceed one-half of the
25 maximum term of imprisonment prescribed for the offense of which the
26 defendant was convicted.

27 C. A defendant may file a motion to be sentenced under this Article any
28 time prior to sentencing. The court shall determine, at the sentencing hearing,
29 if the defendant has established the criteria required by Paragraph A of this

1 Article. If the state and defendant agree that the criteria set forth in Paragraph
2 A are met, the court may sentence the defendant pursuant to Paragraph B of
3 this Article without hearing additional evidence related to the applicability of
4 this Article.

5 D. For the purposes of this Article:

6 (1) "Domestic abuse" shall have the same definition as in R.S. 46:2132,
7 regardless of whether the conduct led to an arrest or conviction.

8 (2) "Human trafficking" shall have the same definition as in R.S. 14:46.2,
9 regardless of whether the conduct led to an arrest or conviction.

10 (3) "Sexual assault" shall have the same definition as in R.S. 46:2184,
11 regardless of whether the conduct led to an arrest or conviction.

12 (4) "Trafficking of children for sexual purposes" shall have the same
13 definition as in R.S. 14:46.3.

14 * * *

15 Art. 894.1. Sentencing guidelines; generally

16 * * *

17 G. If the court finds clear and convincing evidence both that the
18 defendant is a victim of domestic abuse as defined in R.S. 46:2132, sexual
19 assault as defined in R.S. 46:2184, or human trafficking as defined in R.S.
20 14:46.2 or trafficking of children for sexual purposes as defined in R.S. 14: 46.3,
21 and that there was a rational, causal, and temporally proximate connection
22 involving a continuous sequence of events between the offense and the
23 defendant's victimization, the court shall order a presentence investigation, at
24 which it shall consider the effects of the domestic abuse, sexual assault, or
25 human trafficking on the defendant when determining the appropriate
26 sentence, and shall provide written reasons for any sentence imposed. Clear and
27 convincing evidence under this Paragraph may be considered in conjunction
28 with all of the evidence elicited in determining whether to grant a downward
29 departure from a mandatory minimum sentence under State v. Dorthey, 623

1 So.2d 1276 (La. 1993), and its progeny. Nothing contained herein shall be
2 construed to overrule, expand, or extend, whether directly or by analogy, the
3 decision reached by the Louisiana Supreme Court in State v. Dorthey, 623 So.2d
4 1276 (La. 1993), nor its progeny as further interpreted by the Louisiana
5 Supreme Court.

6 Section 3. R.S. 14:18.1 is hereby enacted to read as follows:

7 §18.1. Victims of domestic abuse, sexual assault, human trafficking, or
8 trafficking of children for sexual purposes; duress defense

9 A. A defendant's criminal conduct shall be deemed justifiable if he
10 proves the following at trial by a preponderance of the evidence:

11 (1) He is not charged with a crime of violence as defined in R.S. 14:2(B),
12 a sex offense as defined in R.S. 15:541, or cruelty to juveniles as defined in R.S.
13 14:93.

14 (2) He is a victim of domestic abuse as defined in R.S. 46:2132 involving
15 serious bodily injury, sexual assault as defined in R.S. 46:2184, human
16 trafficking as defined in R.S. 14:46.2, or trafficking of children for sexual
17 purposes as defined in R.S. 14:46.3.

18 (3) He reasonably believed at the time of the criminal conduct that the
19 perpetrator of the domestic abuse, sexual assault, human trafficking, or
20 trafficking of children for sexual purposes would inflict death, great bodily
21 harm, or sexual assault upon either the defendant or another if the defendant
22 did not commit the charged offense.

23 (4) There was a rational, causal, and temporally proximate connection
24 between the offense committed by the defendant and the defendant's
25 victimization.

26 B. A defendant who is a victim of domestic abuse, sexual assault, human
27 trafficking, or trafficking of children for sexual purposes has no duty to escape
28 or to attempt to escape a relationship or shared residence with the perpetrator
29 of domestic abuse, sexual assault, human trafficking, or trafficking of children

prevent the death, great bodily harm, or sexual assault.

- (5) There was a rational, causal, and temporally proximate connection between the offense and the defendant's victimization.

Proposed law permits expert testimony, in the form of expert opinion, to support or rebut a defense of whether a defendant is a victim of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes. Proposed law further provides that a defendant must provide notice no later than 45 days prior to trial if the defendant intends to offer this defense.

Proposed law provides that an expert may testify, after being qualified by the court under present law, in the form of an opinion on whether the defendant is a victim of intimate partner violence, domestic violence, or sexual violence and committed the offense at issue as a direct result of being a victim.

Proposed law permits evidence of the defendant's victimization by an alleged perpetrator of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes, or any family member, household member or dating partner of the defendant, or any other relevant evidence. Proposed law requires notice be given prior to the introduction of the evidence.

Proposed law provides that the court may find by clear and convincing evidence that the defendant is a victim of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes and that there was rational, causal, and temporarily proximate connection between the offense and the victimization. Proposed law further provides that the court must order a pre-sentence investigation and provide written reasons for any sentence imposed.

Present law provides for a motion to reconsider sentence.

Proposed law provides that a defendant who meets the criteria set forth in proposed law relative to sentencing victims of certain offences may file a motion to reconsider sentence at any time before Aug. 1, 2028. In determining whether to order an evidentiary hearing, the court will use the same standard as provided in present law relative to evidentiary hearings. An evidentiary hearing will not be ordered if the state and the defendant agree on the factual basis for the motion. Proposed law otherwise retains present law.

Proposed law provides that a defendant will be sentenced in accordance with proposed law if all of the following are established by clear and convincing evidence:

- (1) The defendant is a victim of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes.
- (2) Domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes was a significant contributing factor to the defendant's participation in the instant offense.
- (3) Either that the victim is the same person who perpetrated domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes against the defendant, or the perpetrator of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes against the defendant compelled the defendant's participation in the commission of the instant offense using fraud, force, or coercion.
- (4) There was a rational, causal, and temporally proximate connection between the offense and the defendant's victimization.

Proposed law only applies to cases which the perpetrator of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes against the defendant was a principal to the instant offense, as defined by present law, regardless if he was arrested or charged with the instant offense.

Proposed law provides that a defendant who meets proposed law criteria will have his sentenced reduced as follows:

- (1) A sentence of death will not be reduced.
- (2) A sentence of life imprisonment with hard labor will be reduced to imprisonment for a minimum of 10 years, but no more than 50 years, with labor.
- (3) Any other term of imprisonment will not exceed $\frac{1}{2}$ of the maximum term of imprisonment prescribed by present law for the offense for which the defendant was convicted.

Proposed law permits evidence of the defendant's victimization from alleged perpetrator of the domestic abuse, sexual assault or trafficking, or any family member, household member or dating partner of the defendant, or any other relevant evidence. Proposed law requires notice be given prior to the introduction of the evidence.

Effective August 1, 2025.

(Amends C.E. Art. 412.4(A) and (B); adds C.E. 707, C.Cr.P. Arts. 881(A)(5), 890.4, and 894.1(G), and R.S. 14:18.1)