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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.

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DIGEST

SB 215 Original

2023 Regular Session

Barrow

Proposed law permits a defendant who is a victim of intimate partner violence, domestic abuse, human trafficking, or sexual assault to assert the defense of justification when the crime is a direct result of the defendant's status as a victim.

Proposed law requires a rational and causal connection between the defendant's conduct and victimization, and a showing that the conduct was compelled through fraud, force, or coercion. Proposed law further provides that the victim has no duty to escape in order to assert the defense and the failure to escape, prior failure to cooperate in the arrest or prosecution of the perpetrator, and the defendant's past sexual behavior are not admissible to rebut the justification.

Proposed law permits retroactive application to defendants who could have asserted a justification defense based upon proposed law.

Proposed law prohibits the court from sentencing a defendant for longer than the original sentence if the re-sentencing is a result of the new trial under proposed law.

Proposed law requires that defendants be notified of any specialized treatment based upon their status, to the extent services are available.

Proposed law requires the chief judge in each judicial district to submit a report which includes the following information to the Judicial Council of Louisiana by December 1, 2023, and annually thereafter until 2025:

- (1) The number and type of motions presenting this defense.
- (2) The number of motions granted.
- (3) The outcomes of trial verdicts when this defense was presented.

Proposed law further requires the Judicial Counsel of Louisiana is to compile the information by the district courts and report to the Senate Committee on Judiciary C annually by January 15, 2024, until 2026.

Proposed law provides that a victim of human trafficking may assert an affirmative defense to prosecution for offenses that were committed as a direct result of being trafficked.

Proposed law permits expert testimony, in the form of expert opinion, regarding whether a defendant is a victim of intimate partner violence, domestic abuse, human trafficking, or sexual assault.

Proposed law permits a defendant to file a motion for a new trial if the crime of conviction is the result of their status as a victim of intimate partner violence, domestic abuse, human trafficking, or sexual assault.

Proposed law grants a three-year period after conviction for the defendant to file the motion for a new trial, and grants an additional three years to defendants convicted prior to the effective date of proposed law.

Proposed law expands the meaning of "victim" in the context of who may be granted a new trial to include victims of intimate partner violence, domestic abuse, human trafficking, and sexual assault, or those able to show a justification defense under proposed law.

Proposed law permits a sentencing court to reduce the maximum sentence for a defendant who is also a victim of intimate partner violence, domestic abuse, human trafficking, or sexual assault.

Proposed law provides that the provisions of this Act will cease to be effective on December 31, 2027.

Effective August 1, 2023.

(Amends R.S. 14:46.2(F)(1) and C.Cr.P. Art. 851(B)(6), 853(C), and 855.1; adds R.S. 14:18.1, C.Cr.P. Art. 890.1(F), and C.E. Art. 707)