

SENATE COMMITTEE AMENDMENTS

2023 Regular Session

Amendments proposed by Senate Committee on Judiciary C to Original Senate Bill No. 215 by Senator Barrow

1 AMENDMENT NO. 1

2 On page 1, line 2, after "14:46.2(F)(1)" delete the remainder of the line

3 AMENDMENT NO. 2

4 On page 1, line 3, delete "853(C), and 855.1," and after "14:18.1" delete the comma "," and
5 insert "and 46.2(F)(4),"

6 AMENDMENT NO. 3

7 On page 1, line 5, after "890.1(F)" insert ", 926.4, 930.3(9), and 930.8(A)(7),"

8 AMENDMENT NO. 4

9 On page 1, delete lines 15 through 17 and insert the following:

10 **"A. Victims of intimate partner violence, domestic abuse, human**
11 **trafficking, or sexual assault may assert this justification defense to their**
12 **prosecution under either of the following circumstances:**

13 **(1) The alleged victim of the offense perpetrated intimate partner**
14 **violence, domestic abuse, human trafficking, or sexual assault against the**
15 **defendant, and the defendant's conduct is the direct result of that intimate**
16 **partner violence, domestic abuse, or sexual assault. The conduct is a direct**
17 **result of intimate partner violence, domestic abuse, human trafficking, or sexual**
18 **assault if either of the following conditions is met:**

19 **(a) There is a rational, causal connection between the defendant's**
20 **victimization and the instant conduct and the defendant's conduct is not the**
21 **result, in significant part, of other events, circumstances, or considerations**
22 **apart from the intimate partner violence, domestic abuse, human trafficking or**
23 **sexual assault.**

24 **(b) The defendant's conduct was compelled through fraud, force, or**
25 **coercion by the person who perpetrated intimate partner violence, domestic**
26 **abuse, human trafficking, or sexual assault against her. Fraud, force or coercion**
27 **shall be defined in the same way as in R.S. 14:46.2(C)(3)."**

28 AMENDMENT NO. 5

29 On page 2, delete lines 1 through 9

30 AMENDMENT NO. 6

31 On page 2, line 10, change "(3)" to "(2)"

32 AMENDMENT NO. 7

33 On page 3, delete lines 7 through 23

34 AMENDMENT NO. 8

35 On page 3, line 24, change "F." to "E."

1 AMENDMENT NO. 9

2 On page 3, line 28, change "G." to "F."

3 AMENDMENT NO. 10

4 On page 4, after line 29, insert the following

5 **"(4) Victims of trafficking shall also have the ability to assert the**
6 **justification defense pursuant to R.S. 14:18.1.**
7 * * *

8 AMENDMENT NO. 11

9 On page 5, delete lines 18 and 19 and insert the following:

10 "Section 3. Code of Criminal Procedure Art. 890.1(F), 926.4, 930.3(9), and
11 930.8(A)(7) are hereby enacted to"

12 AMENDMENT NO. 12

13 On page 5, deletes lines 21 through 29 and insert the following:

14 **"Art. 926.4 Post-conviction relief for survivors of domestic abuse, intimate**
15 **partner violence, sexual violence and human trafficking**

16 **A. A petitioner who is a victim of intimate partner violence, domestic**
17 **abuse, human trafficking, or sexual assault may seek post-conviction relief**
18 **under this Article.**

19 **B. The petitioner shall be entitled to post-conviction relief if all of the**
20 **following are proven:**

21 **(1) He is a victim of intimate partner violence, domestic abuse, human**
22 **trafficking, or sexual assault.**

23 **(2) The intimate partner violence, domestic abuse, human trafficking, or**
24 **sexual assault was relevant to the petitioner’s guilt or innocence or to the**
25 **proportionality of the sentence.**

26 **(3) The petitioner’s conviction is unreliable or the petitioner’s sentence**
27 **is disproportionate because any of the following:**

28 **(a) The petitioner’s attorney failed to reasonably investigate or introduce**
29 **the petitioner’s history of intimate partner violence, domestic abuse, human**
30 **trafficking, or sexual assault.**

31 **(b) The petitioner’s attorney failed to learn the method by which expert**
32 **testimony about intimate partner violence, human trafficking or sexual assault**
33 **should be introduced at trial, consult with such an expert, or seek to introduce**
34 **such expert testimony at trial.**

35 **(c) The evidence or argument introduced at trial or sentencing contained**
36 **unreliable and discredited misconceptions about the dynamics of intimate**
37 **partner violence, domestic abuse, human trafficking, or sexual assault which**
38 **were material to the issues at trial or sentencing.**

39 **(4) There is a reasonable probability that, but for the deficiencies or**
40 **errors described in Subparagraph (B)(3) of this Article, the result of the**
41 **proceedings would have been different.**

42 **C. Notwithstanding any provisions of the law to the contrary, a petitioner**
43 **who otherwise would be barred from review on the merits by the time limitation**
44 **provided in Article 930.8 or the procedural objections provided in Article 930.4**
45 **shall not be barred from making this claim. This exception shall only apply to**
46 **the petitioner’s first claim under this Article.**

47 **D. For the purposes of this Section:**

48 **(1) “Domestic abuse” shall be defined by R.S. 46:2132, regardless of**
49 **whether the conduct led to an arrest or conviction.**

50 **(2) “Sexual assault” shall be defined by R.S. 46:2184, regardless of**
51 **whether the conduct led to an arrest or conviction.**

1 **(3) "Human trafficking" shall be defined as the conduct prohibited by**
2 **R.S. 14:46.2, regardless of whether the conduct led to an arrest or conviction.**

3 * * *

4 Art. 930.3. Grounds
5 If the petitioner is in custody after sentence for conviction for an offense, relief shall
6 be granted only on the following grounds:

7 * * *

8 **(9) The petitioner qualifies for relief pursuant to Code of Criminal Procedure**
9 **Article 926.4.**

10 * * *

11 Art. 930.8. Time limitations; exceptions; prejudicial delay
12 A. No application for post conviction relief, including applications which seek an
13 out-of-time appeal, shall be considered if it is filed more than two years after the judgment
14 of conviction and sentence has become final under the provisions of Article 914 or 922,
15 unless any of the following apply:

16 * * *

17 **(7) The petitioner qualifies for the exception to timeliness in Article 926.4.**

18 * * **

19 AMENDMENT NO. 13

20 Delete page 6

21 AMENDMENT NO. 14

22 On page 7, delete lines 1 through 11