

2024 Regular Session

HOUSE BILL NO. 631

BY REPRESENTATIVE MARCELLE

CRIMINAL/SENTENCING: Provides relative to sentencing for victims of domestic abuse, human trafficking, or sexual assault

1 AN ACT

2 To enact Code of Criminal Procedure Articles 881.1(A)(5) and 890.4, relative to sentencing  
3 for victims of certain offenses; to provide relative to a motion to reconsider sentence;  
4 to provide for criteria; to provide for sentencing ranges; to provide for the filing of  
5 motions; to provide for definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 881.1(A)(5) and 890.4 are hereby  
8 enacted to read as follows:

9 Art. 881.1. Motion to reconsider sentence

10 A.

11 \* \* \*

12 (5) Notwithstanding any other provision of law to the contrary, a defendant  
13 who meets the criteria set forth in Article 890.4(A) may file a motion to reconsider  
14 sentence at any time before November 1, 2027. In determining whether to order an  
15 evidentiary hearing, the court shall use the same standard as provided in Article 930.  
16 An evidentiary hearing shall not be ordered if the state and the defendant agree on  
17 the factual basis for the motion.

18 \* \* \*

1        Art. 890.4. Sentencing for victims of domestic abuse, human trafficking, or sexual  
2                assault

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

6                (a) The defendant is a victim of domestic abuse, human trafficking, or sexual  
7        assault.

8                (b) Domestic abuse, human trafficking, or sexual assault was a significant  
9        contributing factor in the defendant's participation in the instant offense.

10               (c)(i) The victim of the instant offense is the same person who perpetrated  
11        domestic abuse, human trafficking, or sexual assault against the defendant; or

12               (ii) The perpetrator of domestic abuse, human trafficking, or sexual assault  
13        against the defendant compelled the defendant's participation in the commission of  
14        the instant offense using fraud, force, or coercion, as defined in R.S.  
15        14:46.2(C)(3)(a), (b), (c), or (d).

16               (2) The provisions of Subsubparagraph (c)(ii) of Subparagraph (1) of this  
17        Paragraph shall only apply to situations where the perpetrator of domestic abuse,  
18        human trafficking, or sexual assault against the defendant was a principal to the  
19        instant offense, as defined by R.S. 14:24, regardless of whether he was arrested or  
20        charged with the instant offense.

21               B.(1) If the defendant meets the criteria set forth in Paragraph A of this  
22        Article, the sentencing range shall be as provided in R.S. 14:27(D).

23               (2) If the defendant was convicted of an attempt to commit an offense as  
24        provided in R.S. 14:27(D), the maximum sentence shall be one-half of the maximum  
25        sentence for a conviction of an attempt to commit the offense.

26               C.(1) A defendant may file a motion to be sentenced under this Section at  
27        any time before sentencing. The court shall determine, at the sentencing hearing,  
28        whether the defendant has established the criteria set forth in Paragraph A of this  
29        Article. If the state and defendant agree that the criteria set forth in Paragraph A are

1 met, the court may sentence the defendant under the sentencing range provided in  
2 Paragraph B of this Article without hearing additional evidence related to the  
3 applicability of this sentencing provision.

4 (2) A defendant who had already been sentenced at the time this Article was  
5 enacted may file a motion to reconsider sentence under Code of Criminal Procedure  
6 Article 881.1(A)(5) requesting to be re-sentenced under the sentencing range  
7 provided in this Article.

8 D. For the purposes of this Article:

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

11 (2) "Human trafficking" shall be defined as the conduct prohibited by R.S.  
12 14:46.2, regardless of whether the conduct led to an arrest or conviction.

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

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 631 Original

2024 Regular Session

Marcelle

**Abstract:** Provides relative to sentencing for victims of domestic abuse, human trafficking, or sexual assault.

Present law (C.Cr.P. Art. 881) provides for a motion to reconsider sentence.

Proposed law retains present law generally.

Proposed law provides that a defendant who meets the criteria set forth in Article 890.4(A) may file a motion to reconsider sentence at any time before Nov. 1, 2027. In determining whether to order an evidentiary hearing, the court shall use the same standard as provided in Article 930. An evidentiary hearing shall not be ordered if the state and the defendant agree on the factual basis for the motion.

Proposed law (C.Cr.P. Art. 890.4) provides that a defendant shall 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 abuse, human trafficking, or sexual assault.
- (2) Domestic abuse, human trafficking, or sexual assault was a significant contributing factor in the defendant's participation in the instant offense.

- (3)(a) The victim of the instant offense is the same person who perpetrated domestic abuse, human trafficking, or sexual assault against the defendant; or
- (b) The perpetrator of domestic abuse, human trafficking, or sexual assault against the defendant compelled the defendant's participation in the commission of the instant offense using fraud, force, or coercion, as defined in present law (R.S. 14:46.2(C)(3)(a), (b), (c), or (d)).

Proposed law provides that the provisions of proposed law shall only apply to situations where the perpetrator of domestic abuse, human trafficking, or sexual assault against the defendant was a principal to the instant offense, as defined by present law (R.S. 14:24), regardless of whether he was arrested or charged with the instant offense.

Proposed law provides that if the defendant meets the criteria set forth in proposed law, the sentencing range shall be as provided in present law (R.S. 14:27(D)).

Proposed law provides that if the defendant was convicted of an attempt to commit an offense as provided in present law (R.S. 14:27(D)), the maximum sentence shall be 1/2 of the maximum sentence for a conviction of an attempt to commit the offense.

Proposed law provides that a defendant may file a motion to be sentenced under proposed law at any time before sentencing. Further provides that the court shall determine, at the sentencing hearing, whether the defendant has established the criteria set forth in proposed law.

Proposed law provides that if the state and defendant agree that the criteria set forth proposed law are met, the court may sentence the defendant under the sentencing range provided in proposed law without hearing additional evidence related to the applicability of this sentencing provision.

Proposed law provides that a defendant who had already been sentenced at the time this Article was enacted may file a motion to reconsider sentence under proposed law (C.Cr.P. Art. 881.1(A)(5)) requesting to be re-sentenced under the sentencing range provided in proposed law.

Proposed law defines the terms "domestic abuse", "human trafficking", and "sexual assault".

(Adds C.Cr.P. Arts. 881.1(A)(5) and 890.4)