
HOUSE COMMITTEE AMENDMENTS

2024 Regular Session

Substitute for Original House Bill No. 805 by Representative Bryant as proposed by the House Committee on Administration of Criminal Justice

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To enact R.S. 14:20.2, relative to sentencing mitigation where a victim of abuse uses force or violence or commits a homicide; to provide for sentencing; to provide for notice; to provide for appeals; to provide for application; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:20.2 is hereby enacted to read as follows:

§20.2. Use of force or violence; mitigation for abuse victims

A. Notwithstanding any other provision of law to the contrary, an offender who is convicted of any offense enumerated in Subpart A or B of Part II of Chapter 1 of Title 14 of the Revised Statutes or of any attempt to commit such an offense shall be entitled to sentencing pursuant to this Section if the offender establishes all of the following by clear and convincing evidence at the sentencing hearing:

(1) The offense is committed by an offender who is a victim of domestic abuse as defined by R.S. 46:2132 that involves serious bodily injury, sexual assault as defined by R.S. 46:2184, or trafficking as provided in R.S. 14:46.2 or 46.3.

(2) The offense is committed upon the perpetrator of the domestic abuse involving serious bodily injury, sexual assault, or trafficking against the offender.

(3) The offense is committed as part of a continuous sequence of events relative to an incident of domestic abuse, sexual assault, or trafficking against the offender, under circumstances where the offense would not be justifiable under R.S. 14:19, R.S. 14:20, or any other provision of law.

B.(1) An offender who intends to raise the mitigation at the sentencing hearing as provided in this Section shall, not later than forty-five days prior to trial, notify the district attorney in writing of such intention and file a copy of such notice with the clerk.

(2) The court may, for cause shown, allow late filing of the notice or grant additional time to the parties as may be appropriate. The issue of whether the offender has proven the applicability of the mitigation provided in this Section shall be determined by the court at the sentencing proceeding, and in making its determination, the court may rely upon evidence presented at trial and evidence presented at the sentencing proceeding.

(3) Notwithstanding Article 1101 of the Code of Evidence or any other provision of law to the contrary, if the offender seeks to present evidence in support of the mitigation provided in this Section at the sentencing proceeding, the provisions of the Code of Evidence shall fully govern such sentencing proceeding. Nothing in this Subsection shall be construed as to expand the type of evidence admissible at the trial of the matter.

C. If the offender proves all of the requirements in Subsection A of this Section by clear and convincing evidence at sentencing, the offender shall be sentenced as follows:

(1) For any offense enumerated in Subsection A of this Section that is ordinarily punishable by death or life imprisonment, the offender shall be sentenced to imprisonment at hard labor for not more than forty years, without benefit of probation or suspension of sentence.

(2) For any other offense enumerated in Subsection A of this Section, the offender shall be sentenced in the same manner as ordinarily provided for the offense, but such sentence shall not exceed one-half of the maximum sentence ordinarily provided for the offense.

D. Nothing in this Section shall be construed as to limit the applicability of any affirmative defense provided by law.

E. Both the state and the offender may appeal an adverse ruling from the district court as to whether the offender proved by clear and convincing evidence all of the requirements of Subsection A of this Section to the appropriate court of appeal, and the district court's ruling shall be reviewed for an abuse of discretion.

F. This Section shall be applicable prospectively only, but shall apply to offenders who committed their offenses prior to August 1, 2024, but who did not yet proceed to trial by August 1, 2024.

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)]

HB Draft

2024 Regular Session

Abstract: Provides relative to sentencing mitigation in certain circumstances.

Proposed law provides that an offender who is convicted of any offense enumerated in present law (Subpart A or B of Part II of Ch. 1 of Title 14 of the R.S.) or of any attempt to commit such an offense shall be entitled to sentencing pursuant to proposed law if the offender establishes all of the following by clear and convincing evidence at the sentencing hearing:

- (1) The offense is committed by an offender who is a victim of domestic abuse as defined by present law (R.S. 46:2132) that involves serious bodily injury, sexual assault as defined by present law (R.S. 46:2184), or trafficking as provided in present law (R.S. 14:46.2 or 46.3).
- (2) The offense is committed upon the perpetrator of the domestic abuse involving serious bodily injury, sexual assault, or trafficking against the offender.
- (3) The offense is committed as part of a continuous sequence of events relative to an incident of domestic abuse, sexual assault, or trafficking against the offender, under circumstances where the offense would not be justifiable under present law (R.S. 14:19 or R.S. 14:20) or any other provision of law.

Proposed law provides that an offender who intends to raise the mitigation at the sentencing hearing as provided in proposed law shall, not later than 45 days prior to trial, notify the district attorney in writing of such intention and file a copy of such notice with the clerk.

Proposed law provides that the court may, for cause shown, allow late filing of the notice or grant additional time to the parties as may be appropriate. Further provides that the issue of whether the offender has proven the applicability of the mitigation provided in proposed law shall be determined by the court at the sentencing proceeding, and in making its determination, the court may rely upon evidence presented at trial and evidence presented at the sentencing proceeding.

Proposed law provides that if the offender seeks to present evidence in support of the mitigation provided in proposed law at the sentencing proceeding, the provisions of the Code of Evidence shall fully govern such sentencing proceeding. Further provides that nothing in proposed law shall be construed as to expand the type of evidence admissible at the trial of the matter.

Proposed law provides that if the offender proves all of the requirements in proposed law by clear and convincing evidence at sentencing, the offender shall be sentenced as follows:

- (1) For any offense enumerated in proposed law that is ordinarily punishable by death or life imprisonment, the offender shall be sentenced to imprisonment at hard labor for not more than 40 years, without benefit of probation or suspension of sentence.

- (2) For any other offense enumerated in proposed law, the offender shall be sentenced in the same manner as ordinarily provided for the offense, but such sentence shall not exceed one-half of the maximum sentence ordinarily provided for the offense.

Proposed law shall not be construed as to limit the applicability of any affirmative defense provided by law.

Proposed law provides that both the state and the offender may appeal an adverse ruling from the district court as to whether the offender proved by clear and convincing evidence all of the requirements of proposed law to the appropriate court of appeal, and the district court's ruling shall be reviewed for an abuse of discretion.

Proposed law shall be applicable prospectively only, but shall apply to offenders who committed their offenses prior to Aug. 1, 2024, but who did not yet proceed to trial by Aug. 1, 2024.

(Adds R.S. 14:20.2)