
HOUSE COMMITTEE AMENDMENTS

Amendments proposed by House Committee on Administration of Criminal Justice to Original House Bill No. 1025 by Representative Abramson

AMENDMENT NO. 1

On page 1, line 3, after "(8)," delete the remainder of the line and insert "81.3(A)(3) and (D), 82(G),"

AMENDMENT NO. 2

On page 1, line 5, after "539.3(A)(introductory paragraph)," delete the remainder of the line and insert "541(2)(o), (12)(b), (24)(a), and (25)(c) through (n),"

AMENDMENT NO. 3

On page 1, at the beginning of line 6, delete "and (25)(o),"

AMENDMENT NO. 4

On page 1, line 8, after "(E)(1)," and before "and" insert "Code of Criminal Procedure Articles 851 and 853,"

AMENDMENT NO. 5

On page 1, line 9, after "725.5" and before "to enact" delete "and" and insert a comma ","

AMENDMENT NO. 6

On page 1, line 10, after "(11)," and before "82.1(D)(4)" insert "81.3(A)(4),"

AMENDMENT NO. 7

On page 1, at the beginning of line 12, change "541(25)(p)," to "541(2)(p) and (q),"

AMENDMENT NO. 8

On page 1, line 14, after "Procedure Article" and before "and" change "930.10," to "855.1,"

AMENDMENT NO. 9

On page 1, line 15, after "606(A)(7)," and before "relative" insert "and to repeal R.S. 15:541(25)(o),"

AMENDMENT NO. 10

On page 2, line 2, after "sex offender;" and before "to" insert "to amend provisions relative to the registration and notification requirements for persons convicted of certain offenses involving commercial sexual exploitation;"

1 AMENDMENT NO. 11

2 On page 2, delete line 11 in its entirety and insert "authorize victims of trafficking to file a
3 motion for a new trial for certain"

1 AMENDMENT NO. 12

2 On page 2, line 20, after "for services;" delete the remainder of the line

3 AMENDMENT NO. 13

4 On page 2, delete line 21 in its entirety and insert "to expand the crime of"

5 AMENDMENT NO. 14

6 On page 3, line 6, after "(8)," delete the remainder of the line and insert "81.3(A)(3) and (D),
7 82(G), 83.3(D),"

8 AMENDMENT NO. 15

9 On page 3, line 8, after "(11)," and before "82.1(D)(4)" insert "81.3(A)(4),"

10 AMENDMENT NO. 16

11 On page 3, line 29, after "coercion"" and before "any" delete "means" and insert "shall
12 include but not be limited to"

13 AMENDMENT NO. 17

14 On page 4, at the beginning of line 27, change "F." to "F.(1)"

15 AMENDMENT NO. 18

16 On page 4, line 29, after "prosecution for" delete the remainder of the line and insert the
17 following:

18 "any of the following offenses which were committed as a direct result of
19 being trafficked:

20 (a) R.S. 14:82 (Prostitution)

21 (b) R.S. 14:83.3 (Prostitution by massage)

22 (c) R.S. 14:83.4 (Massage; sexual conduct prohibited)

23 (d) R.S. 14:89 (Crime against nature)

24 (e) R.S. 14:89.2 (Crime against nature by solicitation)

25 (2) Any person seeking to raise this affirmative defense shall provide
26 written notice to the state at least forty-five days prior to trial or at an earlier
27 time as otherwise required by the court.

28 (3) Any person determined to be a victim pursuant to the provisions
29 of this Subsection shall be notified of any treatment or specialized services
30 for sexually exploited persons to the extent that such services are available."

31 AMENDMENT NO. 19

32 On page 5, delete lines 1 through 4 in their entirety

33 AMENDMENT NO. 20

34 On page 5, line 27, after ""Coerce"" and before "any" delete "means" and insert "shall
35 include but not be limited to"

36 AMENDMENT NO. 21

37 On page 7, line 21, after "A." delete the remainder of the line, delete lines 22 through 29 in
38 their entirety, and insert asterisks "* * *"

1 AMENDMENT NO. 22

2 On page 8, delete lines 1 through 11 in their entirety

3 AMENDMENT NO. 23

4 On page 8, line 15, after "age of" and before the comma "," change "eighteen" to "seventeen"

5 AMENDMENT NO. 24

6 On page 8, at the beginning of line 16, change "eighteen" to "seventeen"

7 AMENDMENT NO. 25

8 On page 8, delete lines 22 through 29 in their entirety

9 AMENDMENT NO. 26

10 On page 9, delete lines 1 through 3 in their entirety

11 AMENDMENT NO. 27

12 On page 9, line 7, after "Coerce" and before "any" delete "means" and insert "shall include
13 but not be limited to"

14 AMENDMENT NO. 28

15 On page 10, delete line 25 in its entirety and insert "is determined to be a victim of human
16 trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person"

17 AMENDMENT NO. 29

18 On page 12, line 7, after "person" and before "under" insert "the offender knows to be"

19 AMENDMENT NO. 30

20 On page 12, line 8, after "person" and before "a victim" delete "who is" and insert "the
21 offender knows to be"

22 AMENDMENT NO. 31

23 On page 12, line 11, after "both." delete the remainder of the line and delete line 12 in its
24 entirety

25 AMENDMENT NO. 32

26 On page 12, line 13, after "person" and before "under" insert "the offender knows to be"

27 AMENDMENT NO. 33

28 On page 12, line 16, after "both." delete the remainder of the line

29 AMENDMENT NO. 34

30 On page 12, between lines 21 and 22 insert the following:

31 "E. It shall not be a defense to prosecution for a violation of this
32 Section that the person who receives or agrees to receive anything of value

1 is actually a law enforcement officer or peace officer acting within the
2 official scope of his duties."

3 AMENDMENT NO. 35

4 On page 14, delete line 16 in its entirety and insert "is determined to be a victim of human
5 trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person"

6 AMENDMENT NO. 36

7 On page 14, delete line 29 in its entirety and insert "is determined to be a victim of human
8 trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person"

9 AMENDMENT NO. 37

10 On page 16, delete line 20 in its entirety and insert "is determined to be a victim of human
11 trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person"

12 AMENDMENT NO. 38

13 On page 17, delete line 6 in its entirety and insert "is determined to be a victim of human
14 trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person"

15 AMENDMENT NO. 39

16 On page 18, line 27, after "539.3(A)(introductory paragraph)," delete the remainder of the
17 line and insert "541(2)(o), (12)(b), (24)(a), and (25)(c) through (n), and
18 1352(A)(introductory)"

19 AMENDMENT NO. 40

20 On page 18, line 28, after "R.S. 15:243," delete the remainder of the line and insert
21 "541(2)(p) and (q), 1308(A)(2)(s),"

22 AMENDMENT NO. 41

23 On page 22, delete lines 5 through 21 in their entirety and insert the following:

24 "(2) "Aggravated offense" means a conviction for the perpetration or
25 attempted perpetration of, or conspiracy to commit, any of the following:

26 * * *

27 (o) Human trafficking (R.S. 14:46.2) when the trafficking involves
28 a person under the age of eighteen years or when the services include
29 commercial sexual activity or any sexual conduct constituting a crime under
30 the laws of this state.

31 (p) Purchase of commercial sexual activity with a person under the
32 age of eighteen years or with a victim of human trafficking (R.S.
33 14:82.2(C)(4) and (C)(5)).

34 ~~(q)~~ (q) Any offense under the laws of another state, or military,
35 territorial, foreign, tribal, or federal law which is equivalent to the offenses
36 listed in Subparagraphs (a) through ~~(n)~~(p) of this Paragraph.

37 * * *

38 (12) "Criminal offense against a victim who is a minor" for the
39 purposes of this Chapter means conviction for the perpetration or attempted
40 perpetration of or conspiracy to commit any of the following offenses:

41 * * *

42 (b) A violation of any of the following provisions when the victim
43 is under eighteen years of age: R.S. 14:~~46.2, 82.1,~~ 84(1), (3), (5), or (6), or
44 86, or R.S. 23:251(A)(4).

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(24)(a) "Sex offense" means deferred adjudication, adjudication withheld, or conviction for the perpetration or attempted perpetration of or conspiracy to commit human trafficking when prosecuted under the provisions of R.S. 14:46.2(B)(2) ~~or (3)~~, R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:78 (incest), R.S. 14:78.1 (aggravated incest), R.S. 14:89 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S. 14:89.2(B)(3) (crime against nature by solicitation), R.S. 14:80 (felony carnal knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S.14:81.1 (pornography involving juveniles), R.S. 14:81.2 (molestation of a juvenile or a person with a physical or mental disability), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:81.4 (prohibited sexual conduct between an educator and student), R.S. 14:82.1 (prostitution; persons under eighteen), R.S. 14:82.2(C)(4) and (C)(5) (purchase of commercial sexual activity), R.S. 14:92(A)(7) (contributing to the delinquency of juveniles), R.S. 14:93.5 (sexual battery of the infirm), R.S. 14:106(A)(5) (obscenity by solicitation of a person under the age of seventeen), R.S. 14:283 (video voyeurism), R.S. 14:41 (rape), R.S. 14:42 (aggravated rape), R.S. 14:42.1 (forcible rape), R.S. 14:43 (simple rape), R.S. 14:43.1 (sexual battery), R.S. 14:43.2 (second degree sexual battery), R.S. 14:43.3 (oral sexual battery), R.S. 14:43.5 (intentional exposure to AIDS virus), or a second or subsequent conviction of R.S. 14:283.1 (voyeurism), committed on or after June 18, 1992, or committed prior to June 18, 1992, if the person, as a result of the offense, is under the custody of the Department of Public Safety and Corrections on or after June 18, 1992. A conviction for any offense provided in this definition includes a conviction for the offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to an offense provided for in this Chapter, unless the tribal court or foreign conviction was not obtained with sufficient safeguards for fundamental fairness and due process for the accused as provided by the federal guidelines adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

* * *

(25) "Sexual offense against a victim who is a minor" means a conviction for the perpetration or attempted perpetration of, or conspiracy to commit, any of the following:

* * *

~~(c) Human trafficking when prosecuted under the provisions of R.S. 14:46.2(B)(3).~~

~~(d)~~(c) Aggravated incest (R.S. 14:78.1) under the circumstances not listed as those which constitute an "aggravated offense" as defined in this Section.

~~(e)~~(d) Pornography involving juveniles (R.S. 14:81.1).

~~(f)~~(e) Molestation of a juvenile or a person with a physical or mental disability (R.S. 14:81.2), except when prosecuted under the provisions of R.S. 14:81.2(C)(1), (D)(1), or (D)(2).

~~(g)~~(f) Computer-aided solicitation of a minor (R.S. 14:81.3).

~~(h)~~(g) Prostitution; persons under seventeen (R.S. 14:82.1).

~~(i)~~(h) Enticing minors into prostitution (R.S. 14:86).

~~(j)~~(i) Pandering in violation of R.S. 14:84(1), (3), (5), and (6).

~~(k)~~(j) Soliciting for prostitutes when the persons being solicited for prostitution are under the age of eighteen years (R.S. 14:83).

~~(l)~~(k) Inciting prostitution when the prostitution involves persons under the age of eighteen years (R.S. 14:83.1).

~~(m)~~(l) Promoting prostitution when the prostitution being promoted involves persons under the age of eighteen years (R.S. 14:83.2).

~~(n)~~(m) Operation of places of prostitution when the prostitution involves persons under the age of eighteen years (R.S. 14:282).

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1 ~~(n)~~ Any conviction for an offense under the laws of another state,
2 or military, territorial, foreign, tribal, or federal law which is equivalent to
3 the offenses listed in Subparagraphs (a) through ~~(o)~~ of this Paragraph."

4 AMENDMENT NO. 42

5 On page 30, line 29, after "under" and before "(A)(2) or (B)(2)" change "Paragraph" to
6 "Subparagraph"

7 AMENDMENT NO. 43

8 On page 31, line 7, after "described in" and before "(A)(2) or (B)(2)" change "Paragraph"
9 to "Subparagraph"

10 AMENDMENT NO. 44

11 On page 31, delete lines 12 through 29 in their entirety, on page 32, delete lines 1 through
12 17 in their entirety, and insert the following:

13 "If a victim of human trafficking or trafficking of children for sexual
14 purposes is also a defendant in any case arising from unlawful acts
15 committed as part of the same trafficking activity, any inculpatory statement
16 made by the victim as a result of questioning by any person then known by
17 the victim to be a law enforcement officer is inadmissible against the victim,
18 except pursuant to Article 801 of this Code or in any prosecution of the
19 victim for perjury, at a trial of the victim for the unlawful acts committed by
20 the victim as part of the same trafficking activity if all of the following
21 conditions exist:

22 (1) The victim cooperates with the investigation and prosecution,
23 including the giving of a use-immunity statement as directed by the
24 prosecuting attorney.

25 (2) The victim testifies truthfully at any hearing or trial related to the
26 trafficking activity, or agrees, either in writing or on the record, to testify
27 truthfully at any hearing or trial related to the trafficking activity in any
28 prosecution of any other person charged with an offense arising from the
29 same trafficking activity, regardless of whether the testimony is unnecessary
30 due to entry of a plea by the other person.

31 (3) The victim has agreed in writing to receive services or participate
32 in a program that provides services to victims of human trafficking or
33 trafficking of children for sexual purposes, if such services are available.

34 Section 6. Code of Criminal Procedure Articles 851 and 853 are
35 hereby amended and reenacted and Code of Criminal Procedure Article
36 855.1 is hereby enacted to read as follows:

37 Art. 851. Grounds for new trial

38 A. The motion for a new trial is based on the supposition that
39 injustice has been done the defendant, and, unless such is shown to have been
40 the case the motion shall be denied, no matter upon what allegations it is
41 grounded.

42 B. The court, on motion of the defendant, shall grant a new trial
43 whenever any of the following occur:

44 (1) The verdict is contrary to the law and the evidence;_

45 (2) The court's ruling on a written motion, or an objection made
46 during the proceedings, shows prejudicial error;_

47 (3) New and material evidence that, notwithstanding the exercise of
48 reasonable diligence by the defendant, was not discovered before or during
49 the trial, is available, and if the evidence had been introduced at the trial it
50 would probably have changed the verdict or judgment of guilty;_

51 (4) The defendant has discovered, since the verdict or judgment of
52 guilty, a prejudicial error or defect in the proceedings that, notwithstanding

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1 the exercise of reasonable diligence by the defendant, was not discovered
2 before the verdict or judgment;~~or.~~

3 (5) The court is of the opinion that the ends of justice would be
4 served by the granting of a new trial, although the defendant may not be
5 entitled to a new trial as a matter of strict legal right.

6 (6) The defendant is a victim of human trafficking or trafficking of
7 children for sexual purposes and the acts for which the defendant was
8 convicted were committed by the defendant as a direct result of being a
9 victim of the trafficking activity.

10 * * *

11 Art. 853. Time for filing motion for new trial

12 A. ~~A~~ Except as otherwise provided by this Article, a motion for a
13 new trial must be filed and disposed of before sentence. The court, on
14 motion of the defendant and for good cause shown, may postpone the
15 imposition of sentence for a specified period in order to give the defendant
16 additional time to prepare and file a motion for a new trial.

17 B. When the motion for a new trial is based on ground (3) of Article
18 851, the motion may be filed within one year after verdict or judgment of the
19 trial court, although a sentence has been imposed or a motion for a new trial
20 has been previously filed; ~~but.~~ However if an appeal is pending, the court
21 may hear the motion only on remand of the case.

22 C. When the motion for a new trial is based on ground (6) of Article
23 851, the motion may be filed within three years after the verdict or judgment
24 of the trial court, although a sentence has been imposed or a motion for new
25 trial has been previously filed. However, if an appeal is pending, the court
26 may hear the motion only on remand of the case.

27 * * *

28 Art. 855.1. Conviction based on acts committed as a victim of trafficking

29 A motion for new trial based on ground (6) of Article 851 shall be
30 available only to persons convicted of violating R.S. 14:82, 83.3, 83.4, 89,
31 or 89.2 prior to August, 1, 2014, and shall contain allegations of fact sworn
32 to by the defendant or counsel of the defendant, showing that the defendant
33 was convicted of the offense which was committed as a direct result of being
34 a victim of human trafficking or trafficking of children for sexual purposes,
35 or a victim of an offense which would constitute human trafficking or
36 trafficking of children for sexual purposes regardless of the date of
37 conviction. The motion shall provide information showing a rational and
38 causal connection between the acts for which the defendant was convicted
39 and the acts upon which the defendant bases his status as a victim."