

2020 Regular Session

HOUSE BILL NO. 535

BY REPRESENTATIVE MARCELLE

CRIMINAL/SENTENCING: Provides relative to the parties to a crime

1 AN ACT

2 To amend and reenact R.S. 14:23, 24, and 25 and Code of Criminal Procedure Article
3 881.1(A)(1) and (2) and to enact R.S. 14:24.1 and 24.2 and Code of Criminal
4 Procedure Article 881.1(A)(5), relative to parties to a crime; to add "accessory before
5 the fact" to the list of possible parties to a crime; to provide for definitions; to
6 provide for penalties for an accessory before the fact; to provide for the procedure
7 by which an accessory before the fact and an accessory after the fact may be
8 resentenced; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 14:23, 24, and 25 are hereby amended and reenacted and R.S.
11 14:24.1 and 24.2 are hereby enacted to read as follows:

12 §23. Parties classified

13 The parties to crimes are classified as any of the following:

- 14 (1) ~~Principals~~; and Principal.
- 15 (2) Accessory before the fact.
- 16 (3) ~~Accessories~~ Accessory after the fact.

17 §24. ~~Principals~~ Principal

18 All persons concerned in the commission of a crime, ~~whether~~ who are present
19 ~~or absent~~, and ~~whether they~~ directly commit the act constituting the offense, ~~aid and~~

1 ~~abet in its commission, or directly or indirectly counsel or procure another to commit~~
2 ~~the crime~~, are principals. The bill of information or indictment shall read principal.

3 §24.1. Accessory before the fact

4 An accessory before the fact is any person concerned in the commission of
5 a crime, whether present or absent, and who aids and abets the principal in the
6 commission of the crime or who directly or indirectly counsels or procures the
7 principal to commit the crime. The bill of information or indictment shall read
8 accessory before the fact.

9 §24.2. Accessory before the fact; penalties

10 An accessory before the fact shall be punished as follows:

11 (1) If the offense is punishable by life imprisonment, the accessory before
12 the fact shall be imprisoned at hard labor for not less than five years nor more than
13 fifteen years.

14 (2)(a) If the offense is theft or receiving stolen things and is not punishable
15 as a felony, the accessory before the fact shall either be fined not more than one
16 hundred dollars, imprisoned for not more than six months, or both.

17 (b) If the offense is receiving stolen things and is punishable as a felony, the
18 accessory before the fact shall either be fined not more than two hundred dollars,
19 imprisoned for not more than one year, or both.

20 (c) If the offense is theft of an amount not less than five hundred dollars nor
21 more than five thousand dollars, the accessory before the fact shall either be fined
22 not more than five hundred dollars, imprisoned for not more than one year, or both.

23 (d) If the offense is theft of an amount over five thousand dollars, the
24 accessory before the fact shall either be fined not more than two thousand five
25 hundred dollars, imprisoned with or without hard labor for not more than five years,
26 or both.

27 (3) In all other cases, the accessory before the fact shall be fined, imprisoned,
28 or both, in the same manner as the principal of the offense, except that such fine and
29 term of imprisonment for the accessory before the fact shall not exceed one-half of

1 the maximum fine prescribed for the offense nor shall it exceed one-half of the
2 maximum term of imprisonment prescribed for the offense.

3 §25. ~~Accessories~~ Accessory after the fact

4 A. An accessory after the fact is any person who, after the commission of a
5 felony, shall harbor, conceal, or aid the offender, knowing or having reasonable
6 ground to believe that he has committed the felony, and with the intent that he may
7 avoid or escape from arrest, trial, conviction, or punishment.

8 B. An accessory after the fact may not be tried and punished;
9 ~~notwithstanding the fact that~~ until the principal felon ~~may not have been arrested,~~
10 ~~tried, has been~~ convicted, ~~or amenable to justice.~~

11 C. Whoever becomes an accessory after the fact shall be fined not more than
12 five hundred dollars, ~~or~~ imprisoned; with or without hard labor; for not more than
13 five years, or both; provided that in no case shall ~~his~~ the punishment be greater than
14 one-half of the maximum provided by law for a principal offender.

15 Section 2. Code of Criminal Procedure Article 881.1(A)(1) and (2) are hereby
16 amended and reenacted and Code of Criminal Procedure Article 881.1(A)(5) is hereby
17 enacted to read as follows:

18 Art. 881.1. Motion to reconsider sentence

19 A.(1) ~~In~~ Except as provided in Subparagraph (5) of this Paragraph, in felony
20 cases, within thirty days following the imposition of sentence or within such longer
21 period as the trial court may set at sentence, the state or the defendant may make or
22 file a motion to reconsider sentence.

23 (2) ~~In~~ Except as provided in Subparagraph (5) of this Paragraph, in
24 misdemeanor cases, the defendant may file a motion to reconsider sentence at any
25 time following commencement or execution of such sentence. The court may grant
26 the motion and amend the sentence, even following completion of execution of the
27 sentence, to impose a lesser sentence which could lawfully have been imposed.

28 * * *

1 (5)(a) Notwithstanding any provision of law to the contrary, if the defendant
 2 is incarcerated after having been convicted as a principal in the commission of a
 3 crime as defined by R.S. 14:24, but was actually an accessory before the fact in the
 4 commission of a crime as defined by R.S. 14:24.1 or an accessory after the fact in
 5 the commission of the crime as defined by R.S. 14:25, the defendant may file a
 6 motion to reconsider the sentence if he has served at least one-third of the sentence
 7 imposed upon conviction as a principal in the commission of the crime.

8 (b) The motion to reconsider the sentence shall set forth the evidence
 9 supporting the claim that the defendant was an accessory before the fact in the
 10 commission of the crime as defined by R.S. 14:24.1 or an accessory after the fact in
 11 the commission of the crime as defined by R.S. 14:25 and was not a principal in the
 12 commission of the crime as defined by R.S. 14:24. If, based upon facts previously
 13 presented at trial or upon facts proffered by the defendant in support of the motion
 14 pursuant to Paragraph D of this Article, the court determines by a preponderance of
 15 evidence that the defendant was an accessory before the fact in the commission of
 16 the offense or an accessory after the fact in the commission of the offense, the court
 17 shall grant the motion and amend the sentence of the defendant in accordance with
 18 the provisions of R.S. 14:24.2 or 25, with credit for time served by the offender for
 19 the sentence imposed upon him as a principal in the commission of the offense.

* * *

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 535 Original

2020 Regular Session

Marcelle

Abstract: Adds "accessory before the fact" to the list of possible parties to a crime, provides penalties for an accessory before the fact, and provides for the procedure by which an accessory before the fact and an accessory after the fact may be resentedenced.

Present law provides for the following parties to crimes: principal and accessory after the fact.

Present law provides that "principals" are all persons concerned in the commission of a crime whether present or absent, and whether they directly commit the act, aid and abet in its commission, or directly or indirectly counsel or procure another to commit the crime.

Proposed law adds "accessory before the fact" to the list of possible parties to a crime, and amends the present law definition of "principal" to no longer include persons who "aid and abet" in the commission of the a crime.

Proposed law defines "accessory before the fact" as any person concerned in the commission of a crime whether present or absent, and who aids and abets the principal in its commission, or who directly or indirectly counsels or procures the principal to commit the crime.

Proposed law provides for the following penalties for an "accessory before the fact":

- (1) If the offense is punishable by life imprisonment, the accessory before the fact shall be imprisoned at hard labor for not less than five years nor more than 15 years.
- (2) If the offense is theft or receiving stolen things and is not punishable as a felony, the accessory before the fact shall be fined not more than \$100, imprisoned for not more than six months, or both.
- (3) If the offense is receiving stolen things, and is punishable as a felony, the accessory before the fact shall be fined not more than \$200, imprisoned for not more than one year, or both.
- (4) If the offense is theft of an amount not less than \$500 nor more than \$5,000, the accessory before the fact shall be fined not more than \$500, imprisoned for not more than one year, or both.
- (5) If the offense is theft of an amount over \$5,000, the accessory before the fact shall be fined not more than \$2,500, imprisoned with or without hard labor for not more than five years, or both.
- (6) In all other cases, the accessory before the fact shall be fined, imprisoned, or both, in the same manner as the principal of the offense, except that such fine and term of imprisonment for the accessory before the fact shall not exceed half of the maximum fine prescribed for the offense nor shall it exceed half of the maximum term of imprisonment prescribed for the offense.

Present law provides that an accessory after the fact may be tried and punished, notwithstanding the fact that the principal felon may not have been arrested, tried, convicted, or amenable to justice.

Proposed law amends present law to provide that an accessory after the fact may not be tried and punished until the principal felon has been convicted.

Proposed law authorizes a defendant who is incarcerated after having been convicted as a principal in the commission of a crime, but who was actually an accessory before the fact as defined by proposed law or an accessory after the fact as defined by present law, to file a motion to reconsider the sentence if he served at least 1/3 of the sentence imposed upon conviction as a principal in the commission of a crime. Proposed law further provides for the procedure for such motions to reconsider.

(Amends R.S. 14:23, 24, and 25 and C.Cr.P. Art. 881.1(A)(1) and (2); Adds R.S. 14:24.1 and 24.2 and C.Cr.P. Art. 881.1(A)(5))