
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.

SB 215 Reengrossed

DIGEST
2023 Regular Session

Barrow

Proposed law determines that a defendant's conduct is justifiable, though otherwise criminal conduct, if the following are proven:

- (1) The crime is not a crime of violence, a sex offense, or cruelty to juveniles.
- (2) The defendant is a victim of domestic violence, sexual assault or trafficking.
- (3) The defendant believed the victim would inflict death, great bodily harm or sexual assault upon the defendant if the defendant did not commit the offense.
- (4) The defendant reasonably believed that committing the offense was necessary to prevent the death, great bodily harm, or sexual assault.

Proposed law further provides that the victim has no duty to escape in order to assert the defense and the failure to escape, prior failure to cooperate in the arrest or prosecution of the perpetrator, and the defendant's past sexual behavior are not admissible to rebut the justification. Proposed law further provides that the finding of fact may consider whether the defendant could have escape or taken other actions instead of committing the offense.

Proposed law permits expert testimony, in the form of expert opinion, to support or rebut a defense of whether a defendant is a victim of intimate partner violence, domestic abuse, human trafficking, or sexual assault. Proposed law further provides that a defendant must provide notice no later than 45 days prior to trial if the defendant intends to offer this defense.

Proposed law provides that the court may find by clear and convincing evidence, that the defendant is a victim of domestic abuse, sexual assault or trafficking and that there was rational, causal, and temporarily proximate connection involving a continuous sequence of events between the offense and the victimization, the court must order a pre-sentence investigation and provide written reasons for any sentence imposed.

Proposed law permits evidence of the defendant's victimization from alleged perpetrator of the domestic abuse, sexual assault or trafficking, or any family member, household member or dating partner of the defendant, or any other relevant evidence. Proposed law requires notice be given prior to the introduction of the evidence.

Effective August 1, 2023.

(Amends C.E. Art. 412.4(A) and (B); adds R.S. 14:18.1, C.Cr.P. Art. 894.1(G))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Change eligibility of victim who may assert justification defense.
2. Delete language allowing for retroactivity of justification defense.
3. Clarify that victims of human trafficking are eligible to assert defense.
4. Add language for post-conviction relief in certain circumstances.

Senate Floor Amendments to engrossed bill

1. Change provision regarding eligibility of victim who may assert justification defense.
2. Delete language allowing for retroactivity of justification defense.
3. Delete language for post-conviction relief in certain circumstances.
4. Change language regarding sentencing limits.
5. Add requirement for pre-sentence investigation.
6. Add language to allow evidence from certain persons.
7. Deletes provision that proposed law ceases to be effective on December 31, 2027.