HOUSE COMMITTEE AMENDMENTS

2023 Regular Session

Amendments proposed by House Committee on Administration of Criminal Justice to Reengrossed Senate Bill No. 215 by Senator Barrow

1 AMENDMENT NO. 1

- 2 On page 1, line 3, after "and" and before the comma "," change "Code of Criminal Procedure
- Article 894.1(G)" to "Code of Criminal Procedure Articles 890.1(F), 926.4, 930.3(9), and 930.8(A)(7)"

5 AMENDMENT NO. 2

- On page 1, line 6, after "trafficking;" and before "and" insert "to provide for post-conviction
 relief;"
- 8 AMENDMENT NO. 3
- 9 On page 1, line 10, after "<u>A.</u>" and before "<u>conduct</u>" change "<u>An offender's</u>" to the "<u>The</u>
 <u>defendant's</u>"

11 AMENDMENT NO. 4

12 On page 1, delete lines 13 through 15 in their entirety

13 AMENDMENT NO. 5

- 14 On page 1, at the beginning of line 16, change "(2) The offender" to "(1) The defendant"
- 15 <u>AMENDMENT NO. 6</u>
- 16 On page 1, at the beginning of line 17, delete "*involving serious bodily injury*"
- 17 <u>AMENDMENT NO. 7</u>
- 18 On page 2, line 1, after the period "." insert the following:
- 19"It shall be immaterial whether or not the perpetrator has been20previously convicted for the offense of domestic abuse, sexual assault, or21trafficking."

22 <u>AMENDMENT NO. 8</u>

- 23 On page 2, at the beginning of line 2, change "(3) The offender" to "(2) The defendant"
- 24 AMENDMENT NO. 9

On page 2, line 4, after "<u>upon the</u>" delete the remainder of the line and insert "<u>defendant</u> <u>or upon another if the defendant did not commit</u>"

- 27 AMENDMENT NO. 10
- 28 On page 2, at the beginning of line 6, change "(4) The offender" to "(3) The defendant"
- 29 AMENDMENT NO. 11
- 30 On page 2, line 8, after "<u>B.</u>" and before "<u>who</u>" change "<u>An offender</u>" to "<u>A defendant</u>"

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1 AMENDMENT NO. 12

- On page 2, line 12, after the period "." delete the remainder of the line and delete lines 13
 through 16 in their entirety
- 4 AMENDMENT NO. 13

On page 2, delete lines 24 through 29 in their entirety and on page 3 delete lines 1 through
3 in their entirety

7 <u>AMENDMENT NO. 14</u>

8 On page 3, line 4, after "Procedure" and before "hereby" change "Art. 894.1(G) is" to "Arts.
9 890.1(F), 926.4, 930.3(9), and 930.8(A)(7) are"

10 AMENDMENT NO. 15

11 On page 3, delete lines 6 through 23 in their entirety and insert the following:

12	"Art. 890.1. Waiver of minimum mandatory sentences; procedure; exceptions
13	* * *
14	F.(1)(a) A defendant who establishes by a preponderance of the evidence
15	that the defendant's status as a victim of intimate partner violence, domestic
16	abuse, human trafficking, or sexual assault was a significant contributing factor
17	to the defendant's participation in the offense shall, if convicted, be sentenced
18	in accordance with the provisions of R.S. 14:27(D).
19	(b) A defendant who is convicted of an attempt to commit an offense as
20	provided in R.S. 14:27 shall be sentenced to not more than either one-half of the
21	longest term of imprisonment prescribed for the attempted offense or twenty
22	years, whichever is shorter.
23	(c) The provisions of this Paragraph shall be given prospective and
24	retroactive application and may be raised by motion pursuant to Article 881.5.
25	If the motion is granted, nothing in this Paragraph shall authorize a court to
26	impose a term of imprisonment longer than the original sentence imposed.
27	(2) The provisions of Paragraph (1) of this Article shall only be
28	applicable if either of the following occur:
29	(a) The alleged victim of the offense is the same person who perpetrated
30	intimate partner violence, domestic abuse, human trafficking, or sexual assault
31	against the defendant.
32	(b) The perpetrator of intimate partner violence, domestic abuse, human
33	trafficking, or sexual assault compelled the defendant's participation in the
34	commission of the offense using fraud, force, or coercion, as defined in R.S.
35	14:46.2(C)(3). This Subsubparagraph shall not apply if the perpetrator of
36	intimate partner violence, domestic abuse, human trafficking, or sexual assault
37	had no role in the instant offense.
38	(3) The terms "domestic abuse", "human trafficking", and "sexual
39	assault" shall have the same meaning as provided in R.S. 14:18.1.
40	(4) It shall be immaterial whether or not the perpetrator has been
41	previously convicted for the offense of domestic abuse, sexual assault, or
42	<u>trafficking.</u>
43	* * *
44	Art. 926.4. Post-conviction relief for survivors of domestic abuse, intimate
45	partner violence, sexual violence or human trafficking
46	A. A petitioner who is a victim of intimate partner violence, domestic
47	abuse, human trafficking, or sexual assault may seek post-conviction relief
48	under this Article.
49	B. The petitioner shall be entitled to post-conviction relief if all of the
50	following are proven:

1	(1) The petitioner is a victim of intimate partner violence, domestic
2	<u>abuse, human trafficking, or sexual assault.</u>
3	(2) The intimate partner violence, domestic abuse, human trafficking,
4	or sexual assault was relevant to the petitioner's guilt or innocence or to the
5	proportionality of the sentence.
6	(3) The petitioner's conviction is unreliable or the petitioner's sentence
7	is disproportionate because of any of the following:
8	(a) The petitioner's attorney failed to reasonably investigate or
9	introduce the petitioner's history of intimate partner violence, domestic abuse,
10	human trafficking, or sexual assault.
11	(b) The petitioner's attorney failed to learn the method by which expert
12	<u>testimony about intimate partner violence, human trafficking, or sexual assault</u>
13	should be introduced at trial, consult with such an expert, or seek to introduce
14	such expert testimony at trial.
15	(c) The evidence or argument introduced at trial or sentencing contained
16	prejudicial errors or defects regarding intimate partner violence, domestic
17	abuse, human trafficking, or sexual assault which were material to the issues at
18	trial or sentencing.
19	(4) There is a reasonable probability that if the evidence described in
20	Subparagraph (B)(3) of this Article had been introduced at the trial, it would
21	probably have changed the verdict or judgment of guilty.
22	C. Notwithstanding any provisions of the law to the contrary, a
23	petitioner who otherwise would be barred from review on the merits by the
24	procedural objections provided in Article 930.4 or time limitations provided in
25	Article 930.8 shall not be barred from making this claim. This exception shall
26	only apply to the petitioner's first claim under this Article.
27	D. For the purposes of this Article:
28	(1) "Domestic abuse" shall have the same meaning as provided in R.S.
29	46:2132, regardless of whether the conduct led to an arrest or conviction.
30	(2) "Human trafficking" shall have the same meaning as provided in
31	R.S. 14:46.2, regardless of whether the conduct led to an arrest or conviction.
32	(3) "Sexual assault" shall have the same meaning as provided in R.S.
33	46:2184, regardless of whether the conduct led to an arrest or conviction.
34	* * *
35	Art. 930.3. Grounds
36	If the petitioner is in custody after sentence for conviction for an offense,
37	relief shall be granted only on the following grounds:
38	* * *
39	(9) The petitioner qualifies for relief pursuant to Code of Criminal
40	Procedure Article 926.4."
41	* * *
42	Art. 930.8. Time limitations; exceptions; prejudicial delay
43	* * *
44	A. No application for post conviction relief, including applications which
45	seek an out-of-time appeal, shall be considered if it is filed more than two years after
46	the judgment of conviction and sentence has become final under the provisions of
47	Article 914 or 922, unless any of the following apply:
48	* * *
49	(7) The petitioner qualifies for the exception to timeliness in Article
50	926.4.
51	* * * *''
52	AMENDMENT NO. 16
52	AMENDMENT NO. 16

- to "the alleged perpetrator of the domestic abuse, sexual assault, or trafficking against the offender as provided in R.S. 14:18.1" 54 55

1 AMENDMENT NO. 17

- 2 On page 4, line 13, after "<u>403</u>" delete the remainder of the line and delete lines 14 through
- 3 19 in their entirety and insert a period "."