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## DIGEST

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HB 631 Original

2024 Regular Session

Marcelle

**Abstract:** Provides relative to sentencing for victims of domestic abuse, human trafficking, or sexual assault.

Present law (C.Cr.P. Art. 881) provides for a motion to reconsider sentence.

Proposed law retains present law generally.

Proposed law provides that a defendant who meets the criteria set forth in Article 890.4(A) may file a motion to reconsider sentence at any time before Nov. 1, 2027. In determining whether to order an evidentiary hearing, the court shall use the same standard as provided in Article 930. An evidentiary hearing shall not be ordered if the state and the defendant agree on the factual basis for the motion.

Proposed law (C.Cr.P. Art. 890.4) provides that a defendant shall be sentenced in accordance with proposed law if all of the following are established by clear and convincing evidence:

- (1) The defendant is a victim of domestic abuse, human trafficking, or sexual assault.
- (2) Domestic abuse, human trafficking, or sexual assault was a significant contributing factor in the defendant's participation in the instant offense.
- (3)(a) The victim of the instant offense is the same person who perpetrated domestic abuse, human trafficking, or sexual assault against the defendant; or
- (b) The perpetrator of domestic abuse, human trafficking, or sexual assault against the defendant compelled the defendant's participation in the commission of the instant offense using fraud, force, or coercion, as defined in present law (R.S. 14:46.2(C)(3)(a), (b), (c), or (d)).

Proposed law provides that the provisions of proposed law shall only apply to situations where the perpetrator of domestic abuse, human trafficking, or sexual assault against the defendant was a principal to the instant offense, as defined by present law (R.S. 14:24), regardless of whether he was arrested or charged with the instant offense.

Proposed law provides that if the defendant meets the criteria set forth in proposed law, the sentencing range shall be as provided in present law (R.S. 14:27(D)).

Proposed law provides that if the defendant was convicted of an attempt to commit an offense as

provided in present law (R.S. 14:27(D)), the maximum sentence shall be 1/2 of the maximum sentence for a conviction of an attempt to commit the offense.

Proposed law provides that a defendant may file a motion to be sentenced under proposed law at any time before sentencing. Further provides that the court shall determine, at the sentencing hearing, whether the defendant has established the criteria set forth in proposed law.

Proposed law provides that if the state and defendant agree that the criteria set forth proposed law are met, the court may sentence the defendant under the sentencing range provided in proposed law without hearing additional evidence related to the applicability of this sentencing provision.

Proposed law provides that a defendant who had already been sentenced at the time this Article was enacted may file a motion to reconsider sentence under proposed law (C.Cr.P. Art. 881.1(A)(5)) requesting to be re-sentenced under the sentencing range provided in proposed law.

Proposed law defines the terms "domestic abuse", "human trafficking", and "sexual assault".

(Adds C.Cr.P. Arts. 881.1(A)(5) and 890.4)