

2025 Regular Session

HOUSE BILL NO. 128

BY REPRESENTATIVE WILFORD CARTER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/SENTENCING: Provides relative to sentencing guidelines

1 AN ACT

2 To enact Code of Criminal Procedure Article 894.1.1, relative to sentencing; to provide for
3 a deviation of sentencing guidelines for certain offenses; to provide for definitions;
4 and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 894.1.1 is hereby enacted to read as
7 follows:

8 Art. 894.1.1. Sentencing guidelines; deviation

9 A. Notwithstanding the provisions of Article 894.1(A), the court shall
10 deviate from the designated sentencing range when all of the following are present:

11 (1) The penalty for the criminal offense consists of a mandatory minimum
12 sentence.

13 (2) Sufficient aggravating or mitigating circumstances are significantly
14 present to differentiate the case from the typical case arising under the offense of
15 conviction.

16 B. When deviating from the designated sentence range, the court shall do all
17 of the following:

18 (1) Pronounce a sentence which is proportional to the seriousness of the
19 offense and the offender's criminal history.

1 (2) State for the record the reasons for the deviation which shall specify the
2 mitigating or aggravating circumstances and the factual basis thereof.

3 C. For the purposes of this Article, the following terms shall have the
4 following meanings:

5 (1) "Aggravating circumstance" means a factor which is present to a
6 significant degree which makes the present case more serious than the typical case
7 arising under the offense of conviction. It shall not mean a factor which constitutes
8 an essential element of the offense of conviction or a separate offense for which the
9 offender was convicted and sentenced, but it shall include any of the following:

10 (a) The offender's conduct during the commission of the offense manifested
11 deliberate cruelty to the victim.

12 (b) The offender knew or should have known that the victim of the offense
13 was particularly vulnerable or incapable of resistance due to extreme youth,
14 advanced age, disability, or ill health.

15 (c) The offender offered or has been offered or has given or received
16 anything of value for the commission of the offense.

17 (d) The offender used his position or status to facilitate the commission of
18 the offense.

19 (e) The offender knowingly created a risk of death or great bodily harm to
20 more than one person.

21 (f) The offender used threats of or actual violence in the commission of the
22 offense.

23 (g) The offender used or caused others to use violence, force, or threats with
24 the intent to influence the institution, conduct, or outcome of the criminal
25 proceedings after commission of the offense.

26 (h) The offender committed the offense in order to facilitate or conceal the
27 commission of another offense.

28 (i) The offense resulted in a significant permanent injury or significant
29 economic loss to the victim or his family.

1 (j) The offender used a dangerous weapon in the commission of the offense.

2 (k) The offense involved multiple victims or incidents for which separate
3 sentences have not been imposed.

4 (l) The offender was persistently involved in similar offenses not already
5 considered as criminal history or as part of a multiple offender adjudication.

6 (m) The offender was a leader or his violation was in concert with one or
7 more other persons with respect to whom the offender occupied a position as an
8 organizer, a supervisory position, or any other position of management.

9 (n) The offense was a major economic offense.

10 (o) The offense was a controlled dangerous substance offense, and the
11 offender obtained substantial income or resources from ongoing drug activities.

12 (p) The offense was a controlled dangerous substance offense where the
13 offender involved juveniles in the trafficking or distribution of drugs.

14 (q) The offender committed the offense in furtherance of a terrorist action.

15 (r) The record of convictions of the offender for prior criminal conduct.

16 (s) The offender foreseeably endangered human life by discharging a firearm
17 during the commission of an offense which has, as an element, the use, attempted
18 use, or threatened use of physical force against the person or property of another, and
19 which, by its very nature, involves a substantial risk that physical force may be used
20 in the course of committing the offense.

21 (t) The offender used a firearm or other dangerous weapon while committing
22 or attempting to commit an offense which has, as an element, the use, attempted use,
23 or threatened use of physical force against the person or property of another, and
24 which, by its very nature, involves a substantial risk that physical force may be used
25 in the course of committing the offense.

26 (u) The offender used a firearm or other dangerous weapon while
27 committing or attempting to commit a controlled dangerous substance offense.

28 (v) Any other relevant aggravating circumstances which distinguish the case
29 from the typical case of the offense of conviction.

1 (2) "Mitigating circumstance" means a factor which is present to a
2 significant degree which lessens the seriousness of the offense below the level of the
3 typical case arising under the offense of conviction. It shall not mean a factor which
4 constitutes a legal defense, but it shall include any of the following:

5 (a) At the time of offense, the victim was the initiator, willing participant,
6 aggressor, provoker of the incident, or enticed the offender to a degree.

7 (b) The offender committed the crime under some degree of duress,
8 coercion, threat, or compulsion.

9 (c) At the time of the offense, the capacity of the offender to appreciate the
10 criminality of his conduct or to conform his conduct to the requirements of law was
11 somewhat impaired.

12 (d) The offense was committed while the offender was under the influence
13 or under the dominion of another person.

14 (e) The offense was committed while the offender was under the influence
15 of significant mental or emotional disturbance.

16 (f) The offense was committed under circumstances which the offender
17 reasonably believed would provide for a moral justification or extenuation for his
18 conduct.

19 (g) The offender committed the offense without significant premeditation.

20 (h) The offender's judgment was impaired because of his extreme youth or
21 advanced age.

22 (i) The offender manifested caution or sincere concern for the safety or
23 well-being of the victim.

24 (j) The offender played a minor or passive role in the crime.

25 (k) The offender compensated, or made a good faith effort to compensate,
26 the victim of the criminal conduct for any damage or injury sustained.

27 (l) The offender cooperated with law enforcement authorities with respect
28 to the current crime of conviction or any other criminal conduct by the offender or
29 other person.

1 (m) The offender was motivated by a desire to provide basic necessities of
2 life for his family or others.

3 (n) The offense involved a small quantity of a controlled dangerous
4 substance and the offense was committed exclusively to support his personal drug
5 habit.

6 (o) The offender pled guilty or otherwise accepted responsibility for the
7 offense and expressed genuine remorse.

8 (p) The offender took steps which rehabilitated him or were reasonably
9 related to his rehabilitation.

10 (q) The offender has spent a significant period of time free of any custody
11 status during which he has not engaged in any criminal activity resulting in a felony
12 or misdemeanor conviction.

13 (r) Any other relevant mitigating circumstances which distinguish the case
14 from the typical case of the offense of conviction.

15 D. The court shall state for the record the considerations taken into account
16 and the factual basis for imposing the sentence.

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 128 Original

2025 Regular Session

Wilford Carter

Abstract: Provides relative to deviation from designated sentencing ranges.

Proposed law requires the court to deviate from the designated sentencing range when all of the following are present:

- (1) The penalty for the criminal offense consists of a mandatory minimum sentence.
- (2) Sufficient aggravating or mitigating circumstances are significantly present to differentiate the case from the typical case arising under the offense of conviction.

Proposed law requires that when deviating from the designated sentence range, the court shall do all of the following:

- (1) Pronounce a sentence which is proportional to the seriousness of the offense and the offender's criminal history.

- (2) State for the record the reasons for the deviation which shall specify the mitigating or aggravating circumstances and the factual basis thereof.

Proposed law defines the terms "aggravating circumstance" and "mitigating circumstance".

Proposed law requires the court to state for the record the considerations taken into account and the factual basis for imposing the sentence.

(Adds C.Cr.P. Art. 894.1.1)