

SENATE BILL NO. 523 (Substitute of Senate Bill No. 91 by Senator Mizell)

BY SENATOR MIZELL

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AN ACT

To amend and reenact R.S. 15:572.4(D) and Code of Criminal Procedure Art. 894.1(B)(33) and to enact Code of Criminal Procedure Art. 894.1(B)(34), relative to victims of domestic abuse, human trafficking, or sexual assault; to provide relative to applications for probation or commutation of sentence; to provide for exceptions; to provide relative to sentencing guidelines; to provide grounds for determining suspension of sentence or probation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:572.4(D) is hereby amended and reenacted to read as follows:

§572.4. Board of Pardons; rules, regulations, and procedures; notice; restrictions on applications; time periods for additional review

* * *

D.(1) Except as provided in ~~Paragraph~~ **Paragraphs (2) and (3)** of this Subsection, any applicant who has been sentenced to life imprisonment shall not be eligible to apply to the board for a pardon or commutation of sentence for a period of fifteen years after being sentenced by the trial court, except that periods of time prior to the imposition of the sentence in which the defendant was in actual custody for the offense for which the defendant was sentenced to life imprisonment shall be included in computing the fifteen-year period.

(2) ~~Any~~ **Except as provided in Paragraph (3) of this Subsection, any** applicant who has been sentenced to life imprisonment for an offense that is either a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 shall not be eligible to apply to the board for a pardon or commutation of sentence for a period of twenty-five years after being sentenced by the trial court, except that periods of time prior to the imposition of the sentence in which the defendant was in actual custody for the offense for which the defendant was sentenced to life imprisonment shall be included in computing the twenty-five-year

1 period. A person who is serving a life sentence resulting from a commutation of a
2 sentence of death shall not thereafter be eligible to apply for commutation of
3 sentence to a specific number of years.

4 (3)(a) Except as provided in Subparagraphs (b) and (c) of this
5 Paragraph, an applicant who was a documented victim of domestic abuse,
6 human trafficking, trafficking of children for sexual purposes, or sexual assault
7 at the time of the commission of the offense for which he was convicted is
8 eligible to apply to the board for a pardon or commutation of sentence.

9 (b) Except as provided in Subparagraph (c) of this Paragraph, an
10 applicant who has been sentenced to life imprisonment pursuant to Paragraph
11 (1) of this Subsection or for a crime of violence as defined in R.S. 14:2(B) shall
12 not be eligible to apply to the board for a pardon or commutation of sentence
13 for a period of five years after being sentenced by the trial court.

14 (c) An applicant shall not be eligible to apply to the board for a pardon
15 or commutation of sentence under Subparagraph (a) or (b) of this Paragraph
16 for any of the following:

17 (i) A conviction that would require the person to register as a sex
18 offender.

19 (ii) A conviction resulting in a sentence of death.

20 (iii) A conviction for a violation of R.S. 14:128.1 or 128.2.

21 (4) If the application is denied, the applicant shall be notified in writing of the
22 reason for the denial and thereafter may file a new application to the board no earlier
23 than five years from the date of action by the board. Any subsequent applications
24 shall not be filed earlier than five years after the immediately preceding action taken
25 by the board.

26 ~~(4)~~(5) The provisions of this Subsection shall not apply when the board
27 determines that new and material evidence that, notwithstanding the exercise of
28 reasonable diligence by the applicant, was not discovered before or during his trial,
29 is available, and if it had been introduced at the trial, it would probably have changed
30 the verdict or judgment of guilty.

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Section 2. Code of Criminal Procedure Art. 894.1(B)(33) is hereby amended and reenacted and Code of Criminal Procedure Art. 894.1(B)(34) is hereby enacted to read as follows:

Art. 894.1. Sentencing guidelines; generally

* * *

B. The following grounds, while not controlling the discretion of the court, shall be accorded weight in its determination of suspension of sentence or probation:

* * *

(33) The defendant is a victim of domestic abuse, human trafficking, trafficking of children for sexual purposes, or sexual assault and there was a rational, causal, and temporally proximate connection between the defendant's victimization and the instant offense.

(34) Any other relevant mitigating circumstance.

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Section 3. The legislature directs the Board of Pardons to review its existing rules, regulations, and procedures for consideration of clemency applications and adopt any rules, regulations, or procedures necessary to implement this Act.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____