

2019 Regular Session

HOUSE BILL NO. 268

BY REPRESENTATIVE NORTON

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

CRIMINAL/PROCEDURE: Provides relative to the time periods within which to institute prosecution for sex offenses

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 571.1 and 572(A)(introductory
3 paragraph) and (B)(1) and to enact Code of Criminal Procedure Article 572.1,
4 relative to limitations upon institution of prosecution; to provide relative to the time
5 limitations upon institution of prosecution for sex offenses; to extend the time within
6 which prosecution is required to be instituted for sex offenses under certain
7 circumstances; to provide relative to the institution of prosecution for sex offenses
8 when the identity of the offender is established through DNA evidence; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Criminal Procedure Article 571.1 and 572(A)(introductory
12 paragraph) and (B)(1) are hereby amended and reenacted and Code of Criminal Procedure
13 Article 572.1 is hereby enacted to read as follows:

14 Art. 571.1. Time limitation for certain sex offenses; victim under the age of
15 seventeen

16 A. Except as provided by Paragraph B of this Article and Code of Criminal
17 Procedure Article 572 of this Chapter 572(B), the time within which to institute
18 prosecution of the following sex offenses that involve a victim under seventeen years
19 of age, regardless of whether the crime involves force, serious physical injury, death,
20 or is punishable by imprisonment at hard labor shall be thirty years: attempted first

1 degree rape, also formerly titled aggravated rape (R.S. 14:27, R.S. 14:42), attempted
 2 second degree rape, also formerly titled forcible rape (R.S. 14:27, R.S. 14:42.1),
 3 sexual battery (R.S. 14:43.1), second degree sexual battery (R.S. 14:43.2), oral
 4 sexual battery (R.S. 14:43.3), human trafficking (R.S. 14:46.2(B)(2) or (3)),
 5 trafficking of children for sexual purposes (R.S. 14:46.3), felony carnal knowledge
 6 of a juvenile (R.S. 14:80), indecent behavior with juveniles (R.S. 14:81),
 7 pornography involving juveniles (R.S. 14:81.1), molestation of a juvenile (R.S.
 8 14:81.2), prostitution of persons under eighteen (R.S. 14:82.1), enticing persons into
 9 prostitution (R.S. 14:86), crime against nature (R.S. 14:89), aggravated crime against
 10 nature (R.S. 14:89.1), and crime against nature by solicitation (R.S. 14:89.2(B)(3));
 11 ~~that involve a victim under seventeen years of age.~~ This thirty-year period begins to
 12 run when the victim attains the age of eighteen.

13 B. If new and material evidence is discovered prior to the expiration of the
 14 thirty-year period provided by this Article, the time within which to institute
 15 prosecution of the offenses provided in this Article is extended for an additional
 16 fifteen years. The additional fifteen-year period begins to run at the expiration of the
 17 thirty-year period. In no case shall the time within which to institute prosecution
 18 extend beyond forty-five years from the date on which the victim attains the age of
 19 eighteen.

20 Art. 572. Limitation of prosecution of noncapital offenses

21 A. Except as provided in Articles 571~~2~~, ~~and~~ 571.1, and 572.1, no person shall
 22 be prosecuted, tried, or punished for an offense not punishable by death or life
 23 imprisonment, unless the prosecution is instituted within the following periods of
 24 time after the offense has been committed:

25 * * *

26 B.(1) Notwithstanding the provisions of ~~Article~~ Articles 571.1 and 572.1 and
 27 Paragraph A of this Article, prosecutions for any sex offense may be commenced
 28 beyond the time limitations set forth in this Title if the identity of the offender is

1 established after the expiration of such time limitation through the use of a DNA
2 profile.

3 * * *

4 Art. 572.1. Time limitation for sex offenses

5 A. Except as provided in Code of Criminal Procedure Articles 571, 571.1,
6 and 572(B) and Paragraph B of this Article, the time within which to institute
7 prosecution of a sex offense as defined by R.S. 15:541, regardless of whether the
8 crime involves force, serious physical injury, death, or is punishable by
9 imprisonment at hard labor, shall be ten years.

10 B. If new and material evidence is discovered prior to the expiration of the
11 ten-year period provided by this Article, the time within which to institute
12 prosecution of the offense is extended for an additional fifteen years. The additional
13 fifteen-year period begins to run at the expiration of the ten-year period.

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 268 Original

2019 Regular Session

Norton

Abstract: Extends the period of time within which to institute prosecution for sex offenses, and provides for an extension of such periods when new and material evidence is discovered prior to its expiration.

Present law provides for certain time limitations within which prosecution is required to be instituted for certain offenses.

In this regard, present law (C.Cr.P. Art. 572) provides as follows:

- (1) Six years, for a felony necessarily punishable by imprisonment at hard labor.
- (2) Four years, for a felony not necessarily punishable by imprisonment at hard labor.
- (3) Two years, for a misdemeanor punishable by a fine, or imprisonment, or both.
- (4) Six months, for a misdemeanor punishable only by a fine or forfeiture.

For any crime which is punishable by death or life imprisonment, or for the crime of second degree rape, present law (C.Cr.P. Art. 571) provides that there is no time limitation upon the institution of prosecution.

Present law (C.Cr.P. Art. 571.1) further provides for a 30-year period in which to institute prosecution for the following sex offenses when the victim is under the age of 17: attempted

first degree rape, attempted second degree rape, sexual battery, second degree sexual battery, oral sexual battery, human trafficking, trafficking of children for sexual purposes, felony carnal knowledge of a juvenile, indecent behavior with juveniles, pornography involving juveniles, molestation of a juvenile, prostitution of persons under eighteen, enticing persons into prostitution, crime against nature, aggravated crime against nature, and crime against nature by solicitation. Present law further provides that this 30-year period begins to run when the victim attains the age of 18.

Present law (C.Cr.P. Art. 572(B)) provides that prosecutions for any sex offense may be commenced beyond the time limitations set forth in present law if the identity of the offender is established after the expiration of such time limitation through the use of a DNA profile. When this exception applies, present law requires prosecution of the offense within three years from the date on which the identity of the suspect is established by DNA testing.

Proposed law amends present law to provide that, except as provided by present law (C.C.P. Art. 571.1) relative to sex offenses committed against a victim who is under the age of 17, the time within which to institute prosecution of a sex offense is ten years, regardless of whether the crime involves force, serious physical injury, death, or is punishable by imprisonment at hard labor. Proposed law further provides that this ten-year period may be extended for an additional 15 years if new and material evidence is discovered prior to the expiration of the ten-year period.

With regard to the present law (C.C.P. Art. 571.1) time limit within which to institute prosecution of a sex offense committed against a victim who is under the age of 17, proposed law extends the 30-year period for an additional 15 years if new and material evidence is discovered prior to the expiration of the 30-year period. In no case shall the time within which to institute prosecution extend beyond 45 years from the date on which the victim attains the age of 18.

Proposed law retains present law with regard to the prosecution of second degree rape (C.Cr.P. Art. 571) and the exception provided for the prosecution of sex offenses after the expiration of the present law time periods when the identity of the offender is established through a DNA profile (C.Cr.P. Art. 572(B)).

(Amends C.Cr.P. Art. 571.1 and 572(A)(intro. para.) and (B)(1); Adds C.Cr.P. Art. 572.1)