

2026 Regular Session

SENATE BILL NO. 91

BY SENATOR MIZELL

CRIME/PUNISHMENT. Provides relative to sentencing of defendants who are survivors of domestic abuse, human trafficking, or sexual assault. (8/1/26)

1 AN ACT

2 To enact Code of Criminal Procedure Art. 881.8 and 890.4 and Code of Evidence Art. 707,
3 relative to sentencing; to provide relative to sentencing of defendants who are
4 survivors of domestic abuse, human trafficking, or sexual assault; to provide for
5 admissibility of certain expert testimony; to provide for resentencing; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Art. 881.8 and 890.4 are hereby enacted to
9 read as follows:

10 **Art. 881.8. Resentencing for survivors of domestic abuse, human trafficking, or**
11 **sexual assault**

12 **A. For the purposes of this Article:**

13 **(1) "Domestic abuse" shall have the same definition as in R.S. 46:2132,**
14 **regardless of whether the conduct led to an arrest or conviction.**

15 **(2) "Human trafficking" shall be defined as the conduct prohibited by**
16 **R.S.14:46.2 or 46.3, regardless of whether the conduct led to an arrest or**
17 **conviction.**

1 (3) "Sexual assault" shall have the same definition as in R.S. 46:2184,
2 regardless of whether the conduct led to an arrest or conviction.

3 (4) "Survivor" means a person who was subjected to domestic abuse,
4 human trafficking, or sexual assault.

5 B. Notwithstanding any provision of law to the contrary, a defendant
6 who meets the sentencing criteria set forth in Article 890.4, but was sentenced
7 prior to August 1, 2026, and is serving a sentence on or after August 1, 2026,
8 may file a motion for resentencing. The motion shall include:

9 (1) Documentation showing that the person is presently serving a
10 sentence for a felony offense not excluded by Article 890.4(C)(3), including but
11 not limited to a master prison record or other document.

12 (2) Documentation showing that the person was sentenced prior to
13 August 1, 2026, including but not limited to a minute entry of the sentencing
14 court, court transcript, uniform commitment order, or other document.

15 (3) At least one item of evidence meeting the requirements of Article
16 890.4(D).

17 C. Upon filing of a motion for resentencing under this Article, the clerk
18 of court shall promptly notify the district attorney and provide the district
19 attorney with a copy of the motion.

20 D.(1) If the court finds that the defendant's motion fails to comply with
21 the provisions of Paragraph B of this Article, it shall deny the motion without
22 prejudice.

23 (2)(a) If the court finds that the defendant's motion complies with the
24 provisions of Paragraph B of this Article, it shall conduct a resentencing
25 hearing, at which the court shall receive and consider evidence and argument
26 from the defendant and the state related to whether the applicant meets the
27 requirements for resentencing under Article 890.4(C).

28 (b) After the resentencing hearing, if the court finds that the defendant
29 meets the requirements for resentencing under Article 890.4(C), it shall vacate

1 the original sentence. After vacating the original sentence, the court shall
2 receive and consider any additional evidence and argument relevant to the
3 imposition of a new sentence, if either party offers to present additional
4 evidence or argument. The court shall then impose a reduced sentence as
5 provided for in Article 890.4(C)(1).

6 (c) After the resentencing hearing, if the court finds that the defendant
7 has not met the requirements for resentencing under Article 890.4(C), it shall
8 deny the motion with prejudice.

9 (3) Upon motion by the defendant and the state, if there is no genuine
10 issue of material fact, the court may determine that the defendant is eligible for
11 resentencing and resentence the defendant without an evidentiary hearing.

12 E. When determining the reduced sentence to impose under the
13 provisions of Article 890.4(C), the court shall consider the mitigating role of
14 domestic abuse, human trafficking, or sexual assault in the defendant's
15 commission of the offense. The court may also consider any facts or
16 circumstances relevant to the imposition of a new sentence submitted by the
17 defendant or the state. The court may consider evidence of the defendant's
18 rehabilitation since the initial sentencing, if evidence of rehabilitation is offered,
19 but the defendant shall not be required to present evidence of rehabilitation.
20 The court shall not order a new presentence investigation and report.

21 F. The court shall issue written findings of fact and reasons for its ruling
22 on the defendant's motion.

23 G. The defendant shall have the right of appeal from an order denying
24 the motion for resentencing or from a new sentence imposed under this Article.

25 H. A defendant who is resented under this Article shall be provided
26 with credit for time served prior to the resentencing.

27 * * *

28 Art. 890.4. Sentencing for survivors of domestic abuse, human trafficking, or
29 sexual assault

1 **A. For the purposes of this Article:**

2 **(1) "Domestic abuse" shall have the same definition as in R.S. 46:2132,**
3 **regardless of whether the conduct led to an arrest or conviction.**

4 **(2) "Fraud, force, or coercion" shall have the same definition as in R.S.**
5 **14:46.2(C)(3), if the perpetrator subjected the survivor to domestic abuse,**
6 **human trafficking, or sexual assault.**

7 **(3) "Human trafficking" shall be defined as the conduct prohibited by**
8 **R.S.14:46.2 or 46.3, regardless of whether the conduct led to an arrest or**
9 **conviction.**

10 **(4) "Sexual assault" shall have the same definition as in R.S. 46:2184,**
11 **regardless of whether the conduct led to an arrest or conviction.**

12 **(5) "Survivor" means a person who was subjected to domestic abuse,**
13 **human trafficking, or sexual assault.**

14 **B. When imposing a sentence, the court shall consider as a mitigating**
15 **factor whether the defendant is a survivor, and if so, the role that domestic**
16 **abuse, human trafficking, or sexual assault played in the defendant's**
17 **commission of the instant offense.**

18 **C.(1) Upon motion of the defendant and after a contradictory hearing,**
19 **if the court finds by clear and convincing evidence that at the time of the offense**
20 **the defendant was a survivor, and that domestic abuse, human trafficking, or**
21 **sexual assault was related to and a substantial contributing factor in causing the**
22 **defendant to commit the offense, the court shall depart from the otherwise**
23 **applicable sentence for the offense as follows:**

24 **(a) A sentence of life imprisonment without the possibility of parole shall**
25 **be reduced to not more than thirty years.**

26 **(b) A sentence of life imprisonment with the possibility of parole shall be**
27 **reduced to not more than twenty-five years.**

28 **(c) A sentence of imprisonment for thirty years or more, but less than**
29 **life, shall be reduced to not more than twenty years.**

1 (d) A sentence of imprisonment for twenty years or more, but less than
2 thirty years, shall be reduced to not more than fifteen years.

3 (e) A sentence of imprisonment for fifteen years or more, but less than
4 twenty years, shall be reduced to not more than seven and one-half years.

5 (f) A sentence of imprisonment for eight years or more, but less than
6 fifteen years, shall be reduced to not more than five years.

7 (2) If the offense is a crime of violence as defined in R.S. 14:2(B), in order
8 to be eligible for a reduced sentence pursuant to Subsubparagraph (1)(a) of this
9 Paragraph, the defendant shall also be required to prove by clear and
10 convincing evidence that the victim of the instant offense was the perpetrator
11 of domestic abuse, human trafficking, or sexual assault against the defendant,
12 or that the perpetrator of domestic abuse, human trafficking, or sexual assault
13 against the defendant compelled the defendant's participation in the instant
14 offense through fraud, force, or coercion.

15 (3) The provisions of Subparagraphs (1) and (2) of this Paragraph shall
16 not apply to a sentence for any of the following:

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

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

20 (c) A conviction under R.S. 14:40.1 (terrorizing; menacing), 14:128.1
21 (terrorism), or 14:128.2 (aiding others in terrorism).

22 D.(1) A defendant who moves to be sentenced under Paragraph C of this
23 Article shall provide corroborating evidence in support of the motion. The fact
24 that the evidence has previously been introduced at a prior court proceeding
25 shall not be a basis for its exclusion as corroborating evidence.

26 (2) Corroborating evidence shall include one or more of the following:

27 (a) A court record.

28 (b) A presentence report.

29 (c) A social services record.

1 (d) A medical record.

2 (e) A sworn statement or prior testimony from a witness who is not the
3 defendant.

4 (f) A law enforcement record.

5 (g) A video or audio recording of the perpetrator of domestic abuse,
6 human trafficking, or sexual assault.

7 (h) An electronic or written communication from the perpetrator of
8 domestic abuse, human trafficking, or sexual assault.

9 (i) Records from a jail or the Department of Public Safety and
10 Corrections.

11 (j) Documentation prepared at or near the time of the commission or
12 prosecution of the offense tending to support the claims of the defendant.

13 (k) Verification of consultation with a licensed mental health care
14 provider, employee of a court acting within the scope of his employment,
15 member of the clergy, an attorney, a social worker, a rape crisis counselor, or
16 other advocate acting on behalf of an agency that assists survivors of domestic
17 abuse, human trafficking, or sexual assault.

18 (l) An expert report, affidavit, or declaration from a psychiatrist,
19 psychologist, social worker, mental health professional, or other expert in
20 domestic abuse, human trafficking, or sexual assault.

21 (m) Evidence, other than a statement of the defendant applying for relief
22 under this Article that would be admissible in a criminal prosecution of the
23 perpetrator of domestic abuse, human trafficking, or sexual assault against the
24 defendant, regardless of whether the perpetrator was or will be prosecuted for
25 that conduct.

26 (n) Documentation or other evidence which the court finds to be credible
27 and relevant to corroborating the defendant's claim of domestic abuse, human
28 trafficking, or sexual assault.

29 (3) In addition to the evidence described in Subparagraph (2) of this

1 Paragraph, the defendant may present other relevant evidence in the motion for
2 relief under this Article or at a resentencing hearing.

3 E.(1) If a defendant moves to be sentenced under Paragraph C of this
4 Article, at the sentencing hearing the court shall first receive and consider
5 evidence and argument from the defendant and the state related to whether the
6 defendant meets the requirements set forth in Paragraph C of this Article.

7 (2) If the court finds that the defendant has met the requirements to be
8 sentenced under Paragraph C of this Article, it shall receive and consider any
9 additional evidence and argument relevant to sentencing, if either party offers
10 to present additional evidence or argument, and impose a sentence under the
11 provisions of that Paragraph. The court shall consider the mitigating role of
12 domestic abuse, human trafficking, or sexual assault when determining the
13 sentence to impose under Paragraph C of this Article.

14 (3) If the court finds that the defendant has not met the requirements
15 under Paragraph C of this Article, it shall deny the defendant's motion.

16 (4) The court may determine that the defendant is eligible for relief
17 under this Article regardless of whether the defendant raised an affirmative
18 defense to the charged offense. Upon request of the defendant and the state, if
19 there is no genuine issue of material fact, the court may determine that the
20 defendant is eligible for sentencing under this Article and sentence the
21 defendant accordingly, without an evidentiary hearing.

22 F. The provisions of this Article shall apply to any defendant sentenced
23 on or after August 1, 2026. A defendant sentenced prior to August 1, 2026, shall
24 be eligible for relief pursuant to Article 881.8.

25 Section 2. Code of Evidence Art. 707 is hereby enacted to read as follows:

26 Art. 707. Expert testimony regarding survivors of domestic abuse, human
27 trafficking, or sexual assault

28 A witness who is qualified as an expert pursuant to Article 702 may
29 testify in the form of an opinion as to whether a defendant was a survivor of

1 **domestic abuse, human trafficking, or sexual assault and as to the effect of that**
 2 **domestic abuse, human trafficking, or sexual assault on the defendant. For**
 3 **purposes of this Article, "survivor" shall have the same definition as in Code of**
 4 **Criminal Procedure Articles 881.8 and 890.4.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, 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)]

DIGEST

SB 91 Original

2026 Regular Session

Mizell

Proposed law provides resentencing relief for a defendant who is a survivor of domestic abuse, human trafficking, or sexual assault and whose experiences as a survivor were a substantial contributing factor to him committing the charged offense.

Proposed law defines "survivor" as a person who was subjected to domestic abuse, human trafficking, or sexual assault. Proposed law also establishes procedures that will allow a defendant who was sentenced prior to August 1, 2026, and is serving a sentence on or after August 1, 2026, to file a motion for resentencing seeking to have the court determine:

- (1) If the defendant's experiences as a survivor were a substantial contributing factor to committing the charged offense.
- (2) If the defendant is eligible for resentencing pursuant to proposed law.

Proposed law provides that the court will deny a defendant's motion for resentencing without prejudice if it fails to comply with proposed law.

Proposed law provides that, if the defendant's motion complies with proposed law, the court will conduct a contradictory resentencing hearing to determine if the defendant meets proposed law resentencing requirements.

Proposed law provides that if the defendant does not meet proposed law resentencing requirements, the court will deny the motion with prejudice.

Proposed law provides that the court may resentence the defendant without an evidentiary hearing if it receives a joint motion asserting that there is no genuine issue of material fact as to the defendant's status as a survivor or that the defendant's experiences as a survivor were a substantial contributing factor to commission of the charged offense.

Proposed law provides that the court will issue written findings of fact and reasons for its ruling on the defendant's motion.

Proposed law provides that, when resentencing a survivor pursuant to proposed law, the court will:

- (1) Not order a new presentence investigation.
- (2) Vacate the original sentence, receive and consider any additional evidence and arguments presented by either side that are relevant to the imposition of a new sentence, and impose a reduced sentence pursuant to proposed law.

- (3) Allow credit for time served by the defendant prior to resentencing.

Proposed law also provides that, when resentencing a survivor pursuant to proposed law, the court may consider:

- (1) Any fact or circumstances submitted by the survivor or the state relevant to the imposition of a new sentence.
- (2) Evidence of the defendant's rehabilitation since the initial sentencing.

Proposed law takes into account the experiences of a defendant who is a survivor of domestic abuse, human trafficking, or sexual assault that were a substantial contributing factor to commission of the charged offense.

Proposed law defines "survivor" as a person who was subjected to domestic abuse, human trafficking, or sexual assault.

Proposed law provides that, on motion of the defendant, the court will conduct a contradictory hearing to determine by clear and convincing evidence that:

- (1) The defendant was a survivor.
- (2) The defendant's experiences as a survivor were, at the time of the committing the offense, a substantial contributing factor to him committing the offense.

Proposed law provides that on or after August 1, 2026, the court will sentence a survivor whose experiences were a substantial contributing factor to the commission of the charged offense as follows:

- (1) A sentence of life imprisonment without the possibility of parole will be reduced to not more than 30 years. If the instant offense is a crime of violence as defined by present law, the survivor will be required to prove by clear and convincing evidence either that the victim of the instant offense was the perpetrator of domestic abuse, human trafficking, or sexual assault against the survivor, or that the perpetrator of domestic abuse, human trafficking, or sexual assault against the survivor compelled the survivor's participation in the instant offense through fraud, force, or coercion to receive a reduced sentence.
- (2) A sentence of life imprisonment with the possibility of parole will be reduced to not more than 25 years.
- (3) A sentence of imprisonment for 30 years or more, but less than life, will be reduced to not more than 20 years.
- (4) A sentence of imprisonment for 20 years or more, but less than 30 years, will be reduced to not more than 15 years.
- (5) A sentence of imprisonment for 15 years or more, but less than 20 years, will be reduced to not more than seven and one-half years.
- (6) A sentence of imprisonment for eight years or more, but less than 15 years, will be reduced to not more than five years.

Proposed law provides exceptions to the sentencing provisions of proposed law for:

- (1) A conviction that will require the defendant to register as a sex offender.
- (2) Capital convictions.

(3) A conviction for certain terrorism offenses.

Proposed law provides that a defendant who moves for sentencing pursuant to proposed law will provide certain corroborating evidence in support of the motion. Proposed law also provides that evidence provided to corroborate the motion will not be excluded based on it having been previously introduced at a prior court proceeding.

Proposed law provides that the court will deny a defendant's motion for sentencing under proposed law if it does not meet proposed law requirements.

Proposed law provides that the court may determine that a defendant is eligible for sentencing under proposed law even if the defendant asserted an affirmative defense to the crime charged.

Proposed law provides that, upon the assertion by both parties that there is no genuine issue of material fact, the court may determine that the defendant is eligible for sentencing under proposed law and sentence the defendant without an evidentiary hearing.

Proposed law provides that qualified experts are authorized to testify in the form of an opinion as to whether a defendant was a survivor of domestic abuse, human trafficking, or sexual assault and the effects of those experiences on the defendant.

Effective August 1, 2026.

(Adds C.Cr.P. Arts. 881.8 and 890.4 and C.E. Art. 707)