

SENATE COMMITTEE AMENDMENTS

2022 Regular Session

Amendments proposed by Senate Committee on Judiciary C to Original Senate Bill No. 251 by Senator Barrow

1 AMENDMENT NO. 1

2 On page 1, delete line 2 and insert the following:

3 "To amend and reenact R.S. 14:2(A)(10) through (12), and to enact Code of Evidence Art.
4 707, Code of Criminal Procedure Art. 851(B)(7) and 853(D) and R.S. 14:2(A)(13)
5 and (14), 18.8, and 20.2, relative to justification; to"

6 AMENDMENT NO. 2

7 On page 1, line 4, after "domestic" delete "violence" and insert "abuse, sex trafficking,"

8 AMENDMENT NO. 3

9 On page 1, line 6, after "domestic" delete "violence" and insert "abuse, sex trafficking," and
10 after "sexual violence;" insert "to provide relative to post-conviction relief;"

11 AMENDMENT NO. 4

12 On page 1, line 9, change "Section 2." to "Section 1."

13 AMENDMENT NO. 5

14 On page 1, delete line 11 and insert "**domestic abuse, sex trafficking, or sexual violence**"

15 AMENDMENT NO. 6

16 On page 1, line 12, before "**A witness**" insert "**A.**"

17 AMENDMENT NO. 7

18 On page 1, between lines 15 and 16, insert the following:

19
20 **"B. Notwithstanding any provision of law to the contrary, evidence of the**
21 **following shall be admissible in determining whether a defendant's conduct is**
22 **justifiable under R.S. 14:20.2:**

23 **(1) Expert opinion as to the effects of intimate partner violence, domestic**
24 **abuse, sex trafficking, or sexual violence to the defendant's state of mind.**

25 **(2) Expert opinion as to the dynamics of intimate partner violence,**
26 **domestic abuse, sex trafficking, or sexual violence.**

27 **(3) Expert opinion as to the circumstances of entrapment and coercive**
28 **control resulting from intimate partner violence, domestic abuse, sex**
29 **trafficking, or sexual violence."**

30 AMENDMENT NO. 8

31 On page 1, delete line 16, and insert the following:

32 "Section 2. Code of Criminal Procedure Art. 851(B)(7) and 853(D) are hereby
33 enacted to read as follows:

34 Art. 851. Grounds for new trial

35 * * *

36 B. The court, on motion of the defendant, shall grant a new trial whenever
37 any of the following occur:

* * *

(7) The defendant is a victim of intimate partner violence, domestic abuse, sex trafficking, or sexual violence and establishes that the defendant would have had a reasonable probability of a successful justification defense under R.S. 14:20.2 had that provision of law existed at the time of the commission of the offense or the prosecution.

* * *

Art. 853. Time for filing motion for new trial

* * *

D. When the motion for new trial is based on Article 851(B)(7) of this Code, the motion may be filed within three years after the verdict or judgment of the trial court, even though a sentence has been imposed or a motion for new trial has previously been filed. However, if an appeal is pending, the court may hear the motion only on remand of the case. Additionally, notwithstanding any provisions of law to the contrary, a defendant may assert a claim based on Art. 851(B)(7) prior to December 1, 2025.

Section 3. R.S. 14:2(A)(10) through (12) are hereby amended and reenacted and R.S. 14:2(A)(13) and (14), 18(8), and 20.2 are hereby enacted to read as follows:

§2. Definitions

A. In this Code the terms enumerated shall have the designated meanings:

* * *

(10) "Sexual assault" means any act that would constitute a sex offense under R.S. 15:541(24).

(11) "Sex trafficking" means any act undertaken for the purpose of exploitation of a victim for sexual purposes, including commercial sexual activity.

~~(10)~~ **(12) "State" means the state of Louisiana, or any parish, municipality, district, or other political subdivision thereof, or any agency, board, commission, department, or institution of said state, parish, municipality, district, or other political subdivision.**

~~(11)~~ **(13) "Unborn child" means any individual of the human species from fertilization and implantation until birth.**

~~(12)~~ ~~(14)~~ **"Whoever" in a penalty clause refers only to natural persons insofar as death or imprisonment is provided, but insofar as a fine may be imposed "whoever" in a penalty clause refers to any person.**

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AMENDMENT NO. 9

On page 2, after line 7, insert the following:

"* * *

§20.2 Justification defense; victims of intimate partner violence, domestic abuse, sex trafficking, or sexual violence

A.(1) Victims of intimate partner violence, domestic abuse, sex trafficking, or sexual violence may assert a justification defense to their prosecution for any conduct that they engage in as a direct result of, or incident to, being a victim of the intimate partner violence, domestic abuse, sex trafficking, or sexual violence. An person's conduct is a direct result of, or incident to, being a victim of intimate partner violence, domestic abuse, sex trafficking, or sexual violence, when either of the following conditions are met:

(a) There is a rational and causal connection between the person's conduct and the person's victimization.

(b) The perpetrator compelled the defendant's conduct through fraud, force, or coercion as defined in R.S. 14:46.2(C)(3).

(2) This defense shall constitute a justification defense separate and distinct from any other justification defenses provided by law, and nothing in this Section shall be interpreted to limit other available defenses.

B. For purposes of this Section:

(1) "Domestic abuse" shall be defined by R.S. 46:2132(3).

(2) "Sexual assault" shall be defined by R.S. 14:2(A)(10).

1 **(3) "Sex trafficking" shall be defined by R.S. 14:2(A)(11).**

2 **C. For the purposes of this Section, a defendant who is a victim of**
3 **intimate partner violence, domestic abuse, sex trafficking, or sexual violence**
4 **shall have no duty to escape or attempt to escape a relationship or shared**
5 **residence with the perpetrator of the intimate partner violence, domestic abuse,**
6 **sex trafficking, or sexual violence prior to or during the conduct at issue in**
7 **order for the defense provided by this Section to apply.**

8 **D. Evidence of the following shall not be admissible for the purposes of**
9 **rebutting the justification defense provided under this Section:**

10 **(1) A defendant's failure to escape or attempt to escape from the**
11 **relationship or shared residence with the perpetrator of intimate partner**
12 **violence, domestic abuse, sex trafficking, or sexual violence.**

13 **(2) A defendant's prior failure to pursue or cooperate in the arrest or**
14 **prosecution of a perpetrator of intimate partner violence, domestic abuse, sex**
15 **trafficking, or sexual violence.**

16 **(3) The defendant's past sexual behavior that was not the result or**
17 **related to intimate partner violence, domestic abuse, sex trafficking, or sexual**
18 **violence, or any history of commercial sexual activity that was not the result of**
19 **intimate partner violence, domestic abuse, sex trafficking, or sexual violence.**

20 **E. Notwithstanding any provisions of law to the contrary, a person who**
21 **was unable to claim the justification defense provided by this Section because**
22 **this Section had not yet been enacted at the time of the commission of the**
23 **offense or the conviction shall be eligible for relief under any of the following**
24 **provisions:**

25 **(1) The defendant may file a motion for new trial pursuant to Code of**
26 **Criminal Procedure Article 851(B)(7) within the time limits provided in Code**
27 **of Criminal Procedure Article 853(D).**

28 **(2) The defendant may file a motion to vacate the judgment. The trial**
29 **court shall grant the motion if the defendant proves by clear and convincing**
30 **evidence that the defendant's conduct was justified under this Section. The**
31 **granting of the motion shall have the same effect as an acquittal. A defendant**
32 **may file the motion within the time limits provided in Code of Criminal**
33 **Procedure Article 853(D)."**