

2025 Regular Session

SENATE BILL NO. 152

BY SENATOR MIZELL

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

CRIME/PUNISHMENT. Provides relative to sentencing of defendants who are victims of domestic abuse, sexual assault, or human trafficking. (8/1/25)

AN ACT

To amend and reenact Code of Evidence Art. 412.4(A) and (B) and to enact Code of Evidence Art. 707, Code of Criminal Procedure Arts. 881(A)(5), 890.4, and 894.1(G), and R.S. 14:18.1, relative to sentencing; to provide relative to sentencing of defendants who are victims of certain crimes; to provide an affirmative defense for defendants who are victims of certain crimes; to provide for admissibility of evidence; to provide for sentencing and resentencing; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Evidence Art. 412.4(A) and (B) are hereby amended and reenacted and Code of Evidence Art. 707 is hereby enacted to read as follows:

Art. 412.4. Evidence of similar crimes, wrongs, or acts in domestic abuse cases and cruelty against juveniles cases; rebuttal of certain defenses

A.(1) When ~~an accused~~ **a defendant** is charged with a crime involving abusive behavior against a family member, household member, or dating partner or with acts ~~which constitute~~ **constituting** cruelty involving a victim who was under the age of seventeen at the time of the offense, evidence of the ~~accused's~~ **defendant's**

1 commission of another crime, wrong, or act involving assaultive behavior against a  
2 family member, household member, or dating partner or acts ~~which constitute~~  
3 **constituting** cruelty involving a victim who was under the age of seventeen at the  
4 time of the offense, may be admissible and may be considered for its bearing on any  
5 matter to which it is relevant, subject to the balancing test provided in Article 403.

6 **(2) When a defendant asserts the affirmative defense provided in R.S.**  
7 **14:18.1, evidence of the defendant's commission of any crime, wrong, or act**  
8 **involving assaultive behavior against the following is admissible and shall be**  
9 **considered for its bearing on rebutting that defense or on any matter to which**  
10 **it is relevant, subject to the balancing test provided in Code of Evidence Article**  
11 **403:**

12 **(a) The alleged perpetrator of the domestic abuse, sexual assault, or**  
13 **human trafficking against the defendant as provided in R.S. 14:18.1.**

14 **(b) Any family member, household member, or dating partner of the**  
15 **defendant.**

16 **(c) Any other person if the evidence is relevant for the purpose of**  
17 **rebutting the defense.**

18 B. ~~In a case in which~~ **If the state prosecution** intends to offer evidence under  
19 the provisions of **Subparagraph (A)(1) of** this Article, ~~the prosecution it~~ shall, upon  
20 request of the accused, provide reasonable notice in advance of trial of the nature of  
21 any such evidence it intends to introduce at trial for such purposes. **However, notice**  
22 **shall not be required prior to introducing evidence under the provisions of**  
23 **Subparagraph (A)(2) of this Article.**

24 \* \* \*

25 **Art. 707. Expert testimony regarding victim of domestic violence, sexual**  
26 **assault, human trafficking, or trafficking of children for sexual**  
27 **purposes**

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

1 violence, sexual assault, human trafficking, or trafficking of children for sexual  
2 purposes and committed the crime charged as a direct result of being a victim.

3 Section 2. Code of Criminal Procedure Arts. 881.1(A)(5), 890.4, and 894.1(G) are  
4 hereby enacted to read as follows:

5 Art. 881.1. Motion to reconsider sentence

6 A.

7 \* \* \*

8 (5) Notwithstanding any other provision of law to the contrary, a  
9 defendant who meets the criteria set forth in Article 890.4(A) may file a motion  
10 to reconsider sentence at any time before August 1, 2028. In determining  
11 whether to order an evidentiary hearing, the court shall use the same standard  
12 as provided in Article 930. An evidentiary hearing shall not be ordered if the  
13 state and the defendant agree on the factual basis for the motion.

14 \* \* \*

15 Art. 890.4. Sentencing of defendants who are victims of domestic abuse, sexual  
16 assault, human trafficking, or trafficking of children for sexual  
17 purposes

18 A.(1) Notwithstanding any other provision of law to the contrary, a  
19 defendant shall be sentenced in accordance with Paragraph B of this Article if  
20 all of the following are established by clear and convincing evidence:

21 (a) The defendant is a victim of domestic abuse, sexual assault, human  
22 trafficking, or trafficking of children for sexual purposes.

23 (b) There was a rational, causal, and temporally proximate connection  
24 between the offense committed by the defendant and the defendant's  
25 victimization.

26 (c) Domestic abuse, sexual assault, human trafficking, or trafficking of  
27 children for sexual purposes was a significant contributing factor in the  
28 defendant's participation in the instant offense.

29 (d) Either:

1                   (i) The victim of the instant offense is the same person who perpetrated  
2                   domestic abuse, sexual assault, human trafficking, or trafficking of children for  
3                   sexual purposes against the defendant.

4                   (ii) The perpetrator of domestic abuse, sexual assault, human trafficking,  
5                   or trafficking of children for sexual purposes against the defendant compelled  
6                   the defendant's participation in the commission of the instant offense using  
7                   fraud, force, or coercion, as defined in R.S. 14:46.2.

8                   (e) The defendant is not charged with a crime that will require him to  
9                   register as a sex offender if convicted.

10                  (f) The defendant is not charged with an attempt or conspiracy to  
11                  commit an offense that would require him to register as a sex offender if  
12                  convicted.

13                  (2) The provisions of Subsubparagraph (A)(1)(c)(ii) of this Article shall  
14                  only apply to cases in which the perpetrator of domestic abuse, sexual assault,  
15                  human trafficking, or trafficking of children for sexual purposes against the  
16                  defendant was a principal to the instant offense, as defined by R.S. 14:24,  
17                  regardless of whether he was arrested or charged with the instant offense.

18                  B. If a defendant meets the criteria set forth in Subparagraph A(1) of  
19                  this Article, he shall be sentenced as follows:

20                   (a) A sentence of death shall not be reduced.

21                   (b) A sentence of life imprisonment with hard labor shall be reduced to  
22                   imprisonment for not less than ten years nor more than fifty years, with hard  
23                   labor.

24                   (c) Any other term of imprisonment shall not exceed one-half of the  
25                   maximum term of imprisonment prescribed for the offense of which the  
26                   defendant was convicted.

27                  C. A defendant may file a motion to be sentenced under this Article any  
28                  time prior to sentencing. The court shall determine, at the sentencing hearing,  
29                  if the defendant has established the criteria required by Paragraph A of this

1 Article. If the state and defendant agree that the criteria set forth in Paragraph  
2 A are met, the court may sentence the defendant pursuant to Paragraph B of  
3 this Article without hearing additional evidence related to the applicability of  
4 this Article.

5 D. For the purposes of this Article:

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

8 (2) "Human trafficking" shall have the same definition as in R.S. 14:46.2,  
9 regardless of whether the conduct led to an arrest or conviction.

10 (3) "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 (4) "Trafficking of children for sexual purposes" shall have the same  
13 definition as in R.S. 14:46.3.

14 \* \* \*

15 Art. 894.1. Sentencing guidelines; generally

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17 G. If the court finds clear and convincing evidence both that the  
18 defendant is a victim of domestic abuse as defined in R.S. 46:2132, sexual  
19 assault as defined in R.S. 46:2184, or human trafficking as defined in R.S.  
20 14:46.2 or trafficking of children for sexual purposes as defined in R.S. 14: 46.3,  
21 and that there was a rational, causal, and temporally proximate connection  
22 involving a continuous sequence of events between the offense and the  
23 defendant's victimization, the court shall order a presentence investigation, at  
24 which it shall consider the effects of the domestic abuse, sexual assault, or  
25 human trafficking on the defendant when determining the appropriate  
26 sentence, and shall provide written reasons for any sentence imposed. Clear and  
27 convincing evidence under this Paragraph may be considered in conjunction  
28 with all of the evidence elicited in determining whether to grant a downward  
29 departure from a mandatory minimum sentence under State v. Dorthey, 623

1        So.2d 1276 (La. 1993), and its progeny. Nothing contained herein shall be  
2        construed to overrule, expand, or extend, whether directly or by analogy, the  
3        decision reached by the Louisiana Supreme Court in State v. Dorthey, 623 So.2d  
4        1276 (La. 1993), nor its progeny as further interpreted by the Louisiana  
5        Supreme Court.

6        Section 3. R.S. 14:18.1 is hereby enacted to read as follows:

7        §18.1. Victims of domestic abuse, sexual assault, human trafficking, or  
8                trafficking of children for sexual purposes; duress defense

9                A. A defendant's criminal conduct shall be deemed justifiable if he  
10        proves the following at trial by a preponderance of the evidence:

11                (1) He is not charged with a crime of violence as defined in R.S. 14:2(B),  
12        a sex offense as defined in R.S. 15:541, or cruelty to juveniles as defined in R.S.  
13        14:93.

14                (2) He is a victim of domestic abuse as defined in R.S. 46:2132 involving  
15        serious bodily injury, sexual assault as defined in R.S. 46:2184, human  
16        trafficking as defined in R.S. 14:46.2, or trafficking of children for sexual  
17        purposes as defined in R.S. 14:46.3.

18                (3) He reasonably believed at the time of the criminal conduct that the  
19        perpetrator of the domestic abuse, sexual assault, human trafficking, or  
20        trafficking of children for sexual purposes would inflict death, great bodily  
21        harm, or sexual assault upon either the defendant or another if the defendant  
22        did not commit the charged offense.

23                (4) There was a rational, causal, and temporally proximate connection  
24        between the offense committed by the defendant and the defendant's  
25        victimization.

26                B. A defendant who is a victim of domestic abuse, sexual assault, human  
27        trafficking, or trafficking of children for sexual purposes has no duty to escape  
28        or to attempt to escape a relationship or shared residence with the perpetrator  
29        of domestic abuse, sexual assault, human trafficking, or trafficking of children

for sexual purposes prior to or during the conduct that led to the charged offense in order to assert the defense provided for in this Section.

C. Subject to the provisions of Chapter 7 of the Code of Evidence and any other applicable provisions of law, expert testimony on the effects, dynamics, and circumstances of entrapment and coercive control relative to domestic abuse, sexual assault, human trafficking, or trafficking of children for sexual purposes is admissible to support or rebut the defense provided for in this Section.

D. Nothing in this Section shall be construed as limiting the applicability of any other affirmative defense provided for by law.

E. A defendant who intends to raise the defense provided for in this Section shall notify the district attorney in writing of such intention and file a copy of the notice with the clerk of court no later than forty-five days prior to trial. The court may, for cause shown, allow late filing of the notice, grant additional time to the parties to prepare for trial, or make other appropriate orders. Failure of the defendant to provide the notice required by this Subsection shall constitute a waiver of the affirmative defense provided by this Section but shall not limit the defendant's right to testify on his own behalf.

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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)]

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Proposed law provides that a defendant's criminal conduct is justifiable if the following are proven:

- (1) The crime is not a crime of violence, a sex offense, or cruelty to juveniles.
- (2) The defendant is a victim of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes.
- (3) The defendant reasonably believed the victim would inflict death, great bodily harm, or sexual assault upon the defendant or another if the defendant did not commit the offense.
- (4) The defendant reasonably believed that committing the offense was necessary to

prevent the death, great bodily harm, or sexual assault.

- (5) There was a rational, causal, and temporally proximate connection between the offense and the defendant's victimization.

Proposed law permits expert testimony, in the form of expert opinion, to support or rebut a defense of whether a defendant is a victim of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes. Proposed law further provides that a defendant must provide notice no later than 45 days prior to trial if the defendant intends to offer this defense.

Proposed law provides that an expert may testify, after being qualified by the court under present law, in the form of an opinion on whether the defendant is a victim of intimate partner violence, domestic violence, or sexual violence and committed the offense at issue as a direct result of being a victim.

Proposed law permits evidence of the defendant's victimization by an alleged perpetrator of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes, or any family member, household member or dating partner of the defendant, or any other relevant evidence. Proposed law requires notice be given prior to the introduction of the evidence.

Proposed law provides that the court may find by clear and convincing evidence that the defendant is a victim of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes and that there was rational, causal, and temporarily proximate connection between the offense and the victimization. Proposed law further provides that the court must order a pre-sentence investigation and provide written reasons for any sentence imposed.

Present law provides for a motion to reconsider sentence.

Proposed law provides that a defendant who meets the criteria set forth in proposed law relative to sentencing victims of certain offences may file a motion to reconsider sentence at any time before Aug. 1, 2028. In determining whether to order an evidentiary hearing, the court will use the same standard as provided in present law relative to evidentiary hearings. An evidentiary hearing will not be ordered if the state and the defendant agree on the factual basis for the motion. Proposed law otherwise retains present law.

Proposed law provides that a defendant will be sentenced in accordance with proposed law if all of the following are established by clear and convincing evidence:

- (1) The defendant is a victim of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes.
- (2) Domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes was a significant contributing factor to the defendant's participation in the instant offense.
- (3) Either that the victim is the same person who perpetrated domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes against the defendant, or the perpetrator of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes against the defendant compelled the defendant's participation in the commission of the instant offense using fraud, force, or coercion.
- (4) There was a rational, causal, and temporally proximate connection between the offense and the defendant's victimization.



Proposed law only applies to cases which the perpetrator of domestic violence, sexual assault, human trafficking, or trafficking of children for sexual purposes against the defendant was a principal to the instant offense, as defined by present law, regardless if he was arrested or charged with the instant offense.

Proposed law provides that a defendant who meets proposed law criteria will have his sentenced reduced as follows:

- (1) A sentence of death will not be reduced.
- (2) A sentence of life imprisonment with hard labor will be reduced to imprisonment for a minimum of 10 years, but no more than 50 years, with labor.
- (3) Any other term of imprisonment will not exceed  $\frac{1}{2}$  of the maximum term of imprisonment prescribed by present law for the offense for which the defendant was convicted.

Proposed law permits evidence of the defendant's victimization from alleged perpetrator of the domestic abuse, sexual assault or trafficking, or any family member, household member or dating partner of the defendant, or any other relevant evidence. Proposed law requires notice be given prior to the introduction of the evidence.

Effective August 1, 2025.

(Amends C.E. Art. 412.4(A) and (B); adds C.E. 707, C.Cr.P. Arts. 881(A)(5), 890.4, and 894.1(G), and R.S. 14:18.1)