

Regular Session, 2013

HOUSE BILL NO. 154

BY REPRESENTATIVES SMITH AND WESLEY BISHOP

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

CRIMINAL/SENTENCING: Provides penalties relative to persons aiding and abetting in the commission of a crime and provides for the procedure by which an aider and abettor may be resentenced

1 AN ACT

2 To amend and reenact R.S. 14:23, 24, and 25 and Code of Criminal Procedure Article  
3 881.1(A)(1) and (2) and to enact R.S. 14:24.1 and 27.1 and Code of Criminal  
4 Procedure Article 881.1(A)(5), relative to parties to a crime; to add "aider and  
5 abettor" to the list of possible parties to a crime; to provide for definitions; to provide  
6 for penalties for aiding and abetting in the commission of a crime; to provide for the  
7 procedure by which an aider and abettor may be resentenced; and to provide for  
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 14:23, 24, and 25 are hereby amended and reenacted and R.S.  
11 14:24.1 and 27.1 are hereby enacted to read as follows:

12 §23. Parties classified

13 The parties to crimes are classified as any of the following:

14 (1) ~~Principals~~; and Principal.

15 (2) Aider and abettor.

16 (2) ~~Accessories~~ (3) Accessory after the fact.

17 §24. ~~Principals~~ Principal

18 ~~All persons~~ A principal is any person concerned in the commission of a  
19 crime, whether present or absent, ~~and whether they directly commit the act~~ who

1 directly commits the act or acts constituting the offense, ~~aid and abet in its~~  
2 ~~commission, or directly or indirectly counsel or procure another to commit the crime,~~  
3 ~~are principals~~ or who counsels or directs another person with the intent of causing  
4 that person to commit the crime.

5 §24.1. Aider and abettor

6 A. An aider and abettor is any person concerned in the commission of a  
7 crime who assists in the commission of the act constituting the offense but who does  
8 not directly commit the act and does not counsel or direct another person with the  
9 intent of causing that person to commit the act.

10 B. An aider and abettor shall be sentenced pursuant to the provisions of R.S.  
11 14:27.1; however, if the person is an aider and abettor in the commission of a sex  
12 offense as defined in R.S. 15:541, the person shall be sentenced as a principal.

13 §25. Accessories ~~Accessory~~ after the fact

14 A. An accessory after the fact is any person who, after the commission of a  
15 felony, shall harbor, conceal, or aid the offender, knowing or having reasonable  
16 ground to believe that he has committed the felony, and with the intent that he may  
17 avoid or escape from arrest, trial, conviction, or punishment.

18 B. An accessory after the fact may be tried and punished, notwithstanding  
19 the fact that the principal felon may not have been arrested, tried, convicted, or  
20 amenable to justice.

21 C. Whoever becomes an accessory after the fact shall be fined not more than  
22 five hundred dollars, ~~or~~ imprisoned, with or without hard labor, for not more than  
23 five years, or both, provided that in no case shall ~~his~~ the punishment be greater than  
24 one-half of the maximum provided by law for a principal offender.

25 \* \* \*

26 §27.1. Aiding and abetting; penalties

27 A. An aider and abettor in the commission of a crime as defined in R.S.  
28 14:24.1 shall be punished as follows:

1           (1)(a) If the offense is punishable by death or life imprisonment, the aider  
2           and abettor shall be imprisoned at hard labor for not less than ten nor more than fifty  
3           years.

4           (b) If the offense is punishable by death or life imprisonment and is against  
5           an individual who is a peace officer engaged in the performance of his lawful duty,  
6           the aider and abettor shall be imprisoned at hard labor for not less than twenty nor  
7           more than fifty years.

8           (2)(a) If the offense is theft or receiving stolen things, and is not punishable  
9           as a felony, the aider and abettor shall be fined not more than two hundred dollars,  
10          imprisoned for not more than six months, or both.

11          (b) If the offense is receiving stolen things, and is punishable as a felony, the  
12          aider and abettor shall be fined not more than two hundred dollars, imprisoned for  
13          not more than one year, or both.

14          (c)(i) If the offense is theft of an amount not less than five hundred dollars  
15          nor more than five thousand dollars, the aider and abettor shall be fined not more  
16          than five hundred dollars, imprisoned for not more than one year, or both.

17          (ii) If the offense is theft of an amount over five thousand dollars, the aider  
18          and abettor shall be fined not more than two thousand dollars, imprisoned, with or  
19          without hard labor, for not more than five years, or both.

20          (3) In all other cases, the aider and abettor shall be fined, imprisoned, or  
21          both, in the same manner as the principal of the offense, except that such fine and  
22          term of imprisonment for the aider and abettor shall not exceed one-half of the  
23          maximum fine prescribed for the offense nor shall it exceed one-half of the  
24          maximum term of imprisonment prescribed for the offense.

25          B. For the purposes of this Section, the term "peace officer" means any peace  
26          officer as defined in R.S. 40:2402.

27          Section 2. Code of Criminal Procedure Article 881.1(A)(1) and (2) are hereby  
28          amended and reenacted and Code of Criminal Procedure Article 881.1(A)(5) is hereby  
29          enacted to read as follows:

1 Art. 881.1. Motion to reconsider sentence

2 A.(1) ~~In~~ Except as provided in Subparagraph (5) of this Paragraph, in felony  
3 cases, within thirty days following the imposition of sentence or within such longer  
4 period as the trial court may set at sentence, the state or the defendant may make or  
5 file a motion to reconsider sentence.

6 (2) ~~In~~ Except as provided in Subparagraph (5) of this Paragraph, in  
7 misdemeanor cases, the defendant may file a motion to reconsider sentence at any  
8 time following commencement or execution of such sentence. The court may grant  
9 the motion and amend the sentence, even following completion of execution of the  
10 sentence, to impose a lesser sentence which could lawfully have been imposed.

11 \* \* \*

12 (5)(a) Notwithstanding any provision of law to the contrary, if the defendant  
13 is incarcerated after having been convicted as a principal in the commission of a  
14 crime as defined by R.S. 14:24, but was actually an aider or abettor in the  
15 commission of the crime as defined by R.S. 14:24.1, the defendant may file a motion  
16 to reconsider the sentence if he has served at least one-third of the sentence imposed  
17 upon conviction as a principal in the commission of the crime.

18 (b) The motion to reconsider the sentence shall set forth the evidence  
19 supporting the claim that the defendant was an aider and abettor in the commission  
20 of the crime as defined by R.S. 14:24.1 and not a principal in the commission of the  
21 crime as defined by R.S. 14:24. If, based upon facts previously presented at trial or  
22 upon facts proffered by the defendant in support of the motion pursuant to Paragraph  
23 D of this Article, the court determines by a preponderance of the evidence that the  
24 defendant was an aider and abettor in the commission of the offense, the court shall  
25 grant the motion and amend the sentence of the defendant in accordance with the  
26 provisions of R.S. 14:27(E), with credit for time served by the offender for the  
27 sentence imposed upon him as a principal in the commission of the offense.



- (5) If the offense is theft of an amount not less than \$500 nor more than \$5,000, the aider and abettor shall be fined not more than \$500, imprisoned for not more than one year, or both.
- (6) If the offense is theft of an amount over \$5,000, the aider and abettor shall be fined not more than \$2,000, imprisoned, with or without hard labor, for not more than five years, or both.
- (7) In all other cases the aider and abettor shall be fined, imprisoned, or both, in the same manner as the principal of the offense, except that such fine and term of imprisonment for the aider and abettor shall not exceed  $\frac{1}{2}$  of the maximum fine prescribed for the offense nor shall it exceed  $\frac{1}{2}$  of the maximum term of imprisonment prescribed for the offense.

Proposed law authorizes a defendant who is incarcerated after having been convicted as a principal in the commission of a crime, but who actually aided and abetted in the commission of the crime as defined by proposed law, to file a motion to reconsider the sentence if he served at least  $\frac{1}{3}$  of the sentence imposed upon conviction as a principal in the commission of the crime. Proposed law further provides the procedure for such motions to reconsider.

(Amends R.S. 14:23, 24, and 25 and C.Cr.P. Art. 881.1(A)(1) and (2); Adds R.S. 14:24.1 and 27.1 and C.Cr.P. Art. 881.1(A)(5))