

2023 Regular Session

HOUSE BILL NO. 475

BY REPRESENTATIVES MAGEE AND KNOX

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

EVIDENCE: Provides relative to admissibility of evidence of a defendant's creative or artistic expression

1 AN ACT

2 To amend and reenact Code of Evidence Article 404(B)(1), relative to evidence; to prohibit
3 the admissibility of a defendant's creative or artistic expression; to provide for
4 exceptions; to provide for definitions; to provide relative to the admissibility of a
5 defendant's creative or artistic expression in a criminal case; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Evidence Article 404(B)(1) is hereby amended and reenacted to
9 read as follows:

10 Art. 404. Character evidence generally not admissible in civil or criminal trial to
11 prove conduct; exceptions; other criminal acts

12 * * *

13 B. Other crimes, wrongs, or acts; creative or artistic expression. (1)(a)

14 Except as provided in Article 412 or as otherwise provided by law, evidence of other
15 crimes, wrongs, or acts is not admissible to prove the character of a person in order
16 to show that he acted in conformity therewith. It may, however, be admissible for
17 other purposes, such as proof of motive, opportunity, intent, preparation, plan,
18 knowledge, identity, absence of mistake or accident, provided that upon request by
19 the accused, the prosecution in a criminal case shall provide reasonable notice in

1 advance of trial, of the nature of any such evidence it intends to introduce at trial for
2 such purposes, or when it relates to conduct that constitutes an integral part of the act
3 or transaction that is the subject of the present proceeding.

4 (b)(i) For purposes of this Subparagraph "creative or artistic expression"
5 means the expression or application of creativity or imagination in the production or
6 arrangement of forms, sounds, words, movements, or symbols, including music,
7 dance, performance art, visual art, poetry, literature, film, and other such objects or
8 media.

9 (ii) Except as provided in Article 412 or as otherwise provided by law,
10 creative or artistic expression is not admissible in a criminal case to prove the
11 character of a person in order to show that he acted in conformity therewith,
12 provided that the accused provides reasonable notice to the prosecution in advance
13 of trial asserting that the evidence is creative or artistic expression. Evidence of
14 creative or artistic expression may, however, be admissible for other purposes, such
15 as proof of motive, opportunity, intent, preparation, plan, knowledge, identity,
16 absence of mistake or accident, provided that upon request by the accused, the
17 prosecution in a criminal case shall provide reasonable notice in advance of trial, of
18 the nature of any such evidence it intends to introduce at trial for such purposes, or
19 when it relates to conduct that constitutes an integral part of the act or transaction
20 that is the subject of the present proceeding.

21 (c) This Paragraph shall not be construed to limit the admission or
22 consideration of evidence under any other rule.

23 * * *

24 Section 2. This Act shall be known and may be cited as the "Restoring Artistic
25 Protection Act of 2023".

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 475 Reengrossed

2023 Regular Session

Magee

Abstract: Provides relative to the admissibility of evidence of a defendant's creative or artistic expression in criminal actions.

Present law (C.E. Art. 404(B)(1)) provides that, unless there is an exception, evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith, but may be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident.

Present law further provides that evidence of other crimes, wrongs, or acts may be admissible for other purposes if, upon request by the accused, the prosecution in a criminal case provides reasonable notice in advance of trial of the nature of any such evidence that it intends to introduce at trial for such purposes, or when the evidence relates to conduct that constitutes an integral part of the act or transaction that is the subject of the present proceeding.

Proposed law retains present law.

Proposed law provides that, unless there is an exception, creative or artistic expression is not admissible in a criminal case to prove the character of a person in order to show that he acted in conformity therewith, provided that the accused provides reasonable notice to the prosecution in advance of trial asserting that the evidence is creative or artistic expression.

Proposed law further provides that evidence of creative or artistic expression may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case provides reasonable notice in advance of trial of the nature of any such evidence that it intends to introduce at trial for such purposes, or when the evidence relates to conduct that constitutes an integral part of the act or transaction that is the subject of the present proceeding.

Proposed law provides that proposed law shall not be construed to limit the admission or consideration of evidence under any other rule.

Proposed law shall be known and cited as the "Restoring Artistic Protection Act of 2023".

(Amends C.E. Art. 404(B)(1))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make technical changes.
2. Define "creative or artistic expression" within the La. Code of Evidence and establish when it is admissible as evidence in criminal proceedings.

3. Provide that proposed law relative to the admissibility of creative or artistic expression shall not be construed to limit the admission or consideration of evidence under any other rule.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Remove proposed law provisions from the Code of Criminal Procedure relative to evidence of a defendant's creative or artistic expression.