

2019 Regular Session

HOUSE BILL NO. 36

BY REPRESENTATIVE STEFANSKI

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

DOMESTIC ABUSE: Provides relative to temporary restraining orders and protective orders in domestic abuse cases

1 AN ACT

2 To amend and reenact R.S. 46:2135(H) and 2136(H) and to enact R.S. 46:2135(I) and
3 2136(I), relative to domestic abuse; to provide relative to the issuance of a temporary
4 restraining order or protective order in domestic abuse cases; to require certain notice
5 to be given to the petitioner; to provide relative to the duty of law enforcement upon
6 receipt of a copy of a Uniform Abuse Prevention Order; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 46:2135(H) and 2136(H) are hereby amended and reenacted and R.S.
10 46:2135(I) and 2136(I) are hereby enacted to read as follows:

11 §2135. Temporary restraining order

12 * * *

13 H. The clerk of the issuing court shall transmit the Uniform Abuse
14 Prevention Order to the judicial administrator's office, Louisiana Supreme Court, for
15 entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A),
16 by facsimile transmission or direct electronic input as expeditiously as possible, but
17 no later than the end of the next business day after the order is filed with the clerk
18 of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse
19 Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to
20 the chief law enforcement officer of the parish where the person or persons protected

1 by the order reside by facsimile transmission or direct electronic input as
2 expeditiously as possible, but no later than the end of the next business day after the
3 order is filed with the clerk of court. A copy of the Uniform Abuse Prevention Order
4 shall be reviewed by the law enforcement agency and shall be retained on file in the
5 office of the chief law enforcement officer until otherwise directed by the court.

6 I. Upon filing a petition for a temporary restraining order, regardless of
7 whether the court grants the temporary restraining order, the clerk of court shall
8 notify the petitioner of his right to initiate criminal proceedings and shall inform the
9 petitioner that the granting of a temporary restraining order pursuant to the
10 provisions of this Section does not automatically file criminal charges against the
11 defendant.

12 §2136. Protective orders; content; modification; service

13 * * *

14 H. The clerk of the issuing court shall transmit the Uniform Abuse
15 Prevention Order to the judicial administrator's office, Louisiana Supreme Court, for
16 entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A),
17 by facsimile transmission or direct electronic input as expeditiously as possible, but
18 no later than the end of the next business day after the order is filed with the clerk
19 of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse
20 Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to
21 the chief law enforcement officer of the parish where the person or persons protected
22 by the order reside by facsimile transmission or direct electronic input as
23 expeditiously as possible, but no later than the end of the next business day after the
24 order is filed with the clerk of court. A copy of the Uniform Abuse Prevention Order
25 shall be reviewed by the law enforcement agency and shall be retained on file in the
26 office of the chief law enforcement officer until otherwise directed by the court.

27 I. At the proceeding, regardless of whether the court grants the protective
28 order, the court shall notify the petitioner of his right to initiate criminal proceedings
29 and shall inform the petitioner that the granting of a protective order pursuant to the

1 provisions of this Section does not automatically file criminal charges against the
 2 defendant.

3 Section 2. The provisions of this Act shall be referred to as "Heather's Law".

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 36 Engrossed

2019 Regular Session

Stefanski

Abstract: Requires certain notification to be given to the petitioner for a temporary restraining order or protective order in domestic abuse cases, and provides relative to the duty of law enforcement upon receipt of a Uniform Abuse Prevention Order.

Present law provides that upon the issuance of a temporary restraining order or protective order in domestic abuse cases, the judge shall cause to have prepared a Uniform Abuse Prevention Order, shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued.

Present law further requires the clerk of the issuing court to transmit the Uniform Abuse Prevention Order to the judicial administrator's office, La. Supreme Court, for entry into the La. Protective Order Registry, and to send a copy of the Uniform Abuse Prevention Order, or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input as expeditiously as possible.

Present law provides that a copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

Proposed law retains present law and does all of the following:

- (1) Adds that the copy of the Uniform Abuse Prevention Order sent to the chief law enforcement officer shall be reviewed by the law enforcement agency upon receipt.
- (2) Requires the petitioner to be notified of the right to initiate criminal proceedings and to be informed that the granting of a temporary restraining order or protective order does not automatically file criminal charges against the defendant.

Provides that proposed law shall be referred to as "Heather's Law".

(Amends R.S. 46:2135(H) and 2136(H); Adds R.S. 46:2135(I) and 2136(I))

Summary of Amendments Adopted by House

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

1. Change the proposed law provision regarding the required notice given to the petitioner to provide that the granting of a temporary restraining order or protective order does not automatically file criminal charges.
2. Provide that proposed law shall be referred to as "Heather's Law".