

ACT No. 440

HOUSE BILL NO. 842 (Substitute for House Bill No. 488 by Representative Moreno)

BY REPRESENTATIVES MORENO, ADAMS, BADON, BARROW, BILLIOT, WESLEY BISHOP, BOUIE, BROADWATER, HENRY BURNS, TIM BURNS, BURRELL, GISCLAIR, GUILLORY, HONORE, HOWARD, NANCY LANDRY, TERRY LANDRY, MONTOUCET, NORTON, PIERRE, REYNOLDS, THIERRY, WILLMOTT, AND WOODRUFF

1 AN ACT

2 To amend and reenact R.S. 14:35.3(A), (B)(3)(introductory paragraph), (4), (5), and (6), and
3 (G), 37.7(A) and (B), 40.2(A), and 79(B)(2) and (3), (C)(1) and (2), and (H), R.S.
4 15:590(introductory paragraph), and R.S. 46:2136.3(A)(introductory paragraph) and
5 to enact R.S. 14:35.3(B)(7), R.S. 15:590(8), and Code of Criminal Procedure Article
6 387, relative to domestic abuse; to provide relative to criminal offenses and
7 procedures involving domestic abuse; to amend the crimes of domestic abuse battery
8 and domestic abuse aggravated assault to include family members as possible
9 victims; to define "family member"; to amend the definition of "household member"
10 and "court-monitored domestic abuse intervention program"; to expand the crime of
11 stalking to specifically include written threats; to provide relative to the crime of
12 violation of protective orders; to amend and provide relative to the penalties for
13 certain offenses of violation of protective orders; to prohibit certain persons subject
14 to a permanent injunction or protective order, issued pursuant to a court-approved
15 consent agreement or certain provisions of law, from possessing a firearm for the
16 duration of the injunction or order; to provide relative to the obtaining and filing of
17 fingerprint and other identification information of persons arrested, or issued a
18 summons and subsequently convicted, for certain domestic abuse-related offenses;
19 to provide relative to the type of information that a prosecutor is required to provide
20 for certain domestic abuse-related offenses; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 14:35.3(A), (B)(3)(introductory paragraph), (4), (5), and (6), and (G),
3 37.7(A) and (B), 40.2(A), and 79(B)(2) and (3), (C)(1) and (2), and (H) are hereby amended
4 and reenacted and R.S. 14:35.3(B)(7) is hereby enacted to read as follows:

5 §35.3. Domestic abuse battery

6 A. Domestic abuse battery is the intentional use of force or violence
7 committed by one household member or family member upon the person of another
8 household member or family member.

9 B. For purposes of this Section:

10 * * *

11 (3) "Court-monitored domestic abuse intervention program" means a
12 program, comprised of a minimum of twenty-six in-person sessions occurring over
13 a minimum of twenty-six weeks, that follows a model designed specifically for
14 perpetrators of domestic abuse. The offender's progress in the program shall be
15 monitored by the court. The provider of the program shall have all of the following:

16 * * *

17 (4) "Family member" means spouses, former spouses, parents, children,
18 stepparents, stepchildren, foster parents, and foster children.

19 ~~(4)~~(5) "Household member" means any person of the opposite sex presently
20 or formerly living in the same residence ~~or living in the same residence within five~~
21 ~~years of the occurrence of the domestic abuse battery with the defendant~~ offender as
22 a spouse, whether married or not, or any child presently or formerly living in the
23 same residence ~~or living in the same residence within five years immediately prior~~
24 ~~to the occurrence of domestic abuse battery~~ with the offender, or any child of the
25 offender regardless of where the child resides.

26 ~~(5)~~(6) "Serious bodily injury" means bodily injury that involves
27 unconsciousness, extreme physical pain, or protracted and obvious disfigurement,
28 or protracted loss or impairment of the function of a bodily member, organ, or
29 mental faculty, or a substantial risk of death.

1 ~~court-approved~~ court-monitored domestic abuse ~~counseling~~ intervention program as
2 defined by R.S. 14:35.3.

3 (3) On a third or subsequent conviction for violation of protective orders
4 which does not involve a battery or any crime of violence as defined by R.S. 14:2(B)
5 against the person protected by the protective order, regardless of whether the current
6 offense occurred before or after the earlier convictions, the offender shall be fined
7 not more than one thousand dollars and imprisoned with or without hard labor for not
8 less than fourteen days nor more than ~~six months~~ two years. At least fourteen days
9 of the sentence of imprisonment imposed under this Paragraph shall be without
10 benefit of probation, parole, or suspension of sentence. If a portion of the sentence
11 is imposed with benefit of probation, parole, or suspension of sentence, the court
12 shall require the offender to participate in a ~~court-approved~~ court-monitored
13 domestic abuse counseling intervention program as defined by R.S. 14:35.3, ~~unless~~
14 ~~the offender has previously been required to participate in such program and, in the~~
15 ~~discretion of the judge, the offender would not benefit from such counseling.~~

16 C.(1) Whoever is convicted of the offense of violation of protective orders
17 where the violation involves a battery or any crime of violence as defined by R.S.
18 14:2(B) against the person protected by the protective order, and who has not been
19 convicted of violating a protective order or of an assault or battery upon the person
20 protected by the protective order within the five years prior to commission of the
21 instant offense, shall be fined not more than five hundred dollars and imprisoned for
22 not less than fourteen days nor more than six months. At least fourteen days of the
23 sentence of imprisonment imposed under this Paragraph shall be without benefit of
24 probation, parole, or suspension of sentence. If a portion of the sentence is imposed
25 with benefit of probation, parole, or suspension of sentence, the court shall require
26 the offender to participate in a ~~court-approved~~ court-monitored domestic abuse
27 counseling intervention program as defined by R.S. 14:35.3 as part of that probation.

28 (2) Whoever is convicted of the offense of violation of protective orders
29 where the violation involves a battery or any crime of violence as defined by R.S.
30 14:2(B) against the person for whose benefit the protective order is in effect, and

1 who has been convicted not more than one time of violating a protective order or of
 2 an assault or battery upon the person for whose benefit the protective order is in
 3 effect within the five-year period prior to commission of the instant offense,
 4 regardless of whether the instant offense occurred before or after the earlier
 5 convictions, shall be fined not more than one thousand dollars and imprisoned with
 6 or without hard labor for not less than three months nor more than ~~six months~~ two
 7 years. At least ~~fourteen~~ thirty days of the sentence of imprisonment imposed under
 8 this Paragraph shall be without benefit of probation, parole, or suspension of
 9 sentence. If a portion of the sentence is imposed with benefit of probation, parole,
 10 or suspension of sentence, the court shall require the offender to participate in a
 11 ~~court-approved~~ court-monitored domestic abuse ~~counseling~~ intervention program as
 12 defined by R.S. 14:35.3, ~~unless the offender has previously been required to~~
 13 ~~participate in such program and, in the discretion of the court, the offender would not~~
 14 ~~benefit from such counseling.~~

* * *

16 H. An offender ordered to participate in a court-monitored domestic abuse
 17 counseling intervention program under the provision of this Section shall pay the
 18 cost incurred in participating in the program, unless the court determines that the
 19 offender is unable to pay. Failure to make payment under this Subsection shall
 20 subject the offender to revocation of probation.

21 Section 2. R.S. 15:590(introductory paragraph) is hereby amended and reenacted and
 22 R.S. 15:590(8) is hereby enacted to read as follows:

23 §590. Obtaining and filing fingerprint and identification data

24 The bureau shall obtain and file the name, fingerprints, description,
 25 photographs, and any other pertinent identifying data as the deputy secretary deems
 26 necessary, of any person who meets any of the following:

* * *

1 B. Failure to comply with the provisions of this Article shall not constitute
2 grounds for a motion to quash.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____