

2017 Regular Session

HOUSE BILL NO. 499

BY REPRESENTATIVE SCHRODER

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

CRIME: Provides relative to the crime of stalking

1 AN ACT

2 To amend and reenact R.S. 14:40.2(F) and (G), relative to the crime of stalking; to provide
3 relative to the issuance of protective orders against persons convicted of stalking; to
4 require certain persons convicted of stalking to complete a court-monitored domestic
5 abuse intervention program; to provide relative to a psychiatric evaluation; to
6 provide relative to the exception to the crime of stalking for private investigators;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:40.2(F) and (G) are hereby amended and reenacted to read as
10 follows:

11 §40.2. Stalking

12 * * *

13 F.(1)(a) ~~Upon motion of the district attorney or on the court's own motion,~~
14 ~~whenever it is deemed appropriate for the protection of the victim~~ Notwithstanding
15 any other sentencing provision, the court ~~may~~ shall, in addition to any penalties
16 imposed pursuant to the provisions of this Section, ~~grant~~ issue a protective order
17 which directs the defendant to refrain from abusing, harassing, interfering with the
18 victim or the employment of the victim, or being physically present within a certain
19 distance of the victim.

1 ~~(2)(b)~~ Any protective order granted pursuant to the provisions of this
2 Subsection shall be served on the defendant at the time of sentencing.

3 ~~(3)(a)(c)~~ The court shall order that the protective order be ~~effective either for~~
4 ~~an indefinite period of time or for a fixed term which shall not exceed eighteen~~
5 ~~months in effect until the defendant has completed the mandatory psychiatric~~
6 ~~evaluation and the court finds that the defendant no longer poses a threat of danger~~
7 ~~to the victim.~~

8 ~~(b)~~ If the court grants the protective order for an indefinite period of time
9 pursuant to Subparagraph (a) of this Paragraph, after a hearing, on the motion of any
10 party and for good cause shown, the court may modify the indefinite effective period
11 of the protective order to be effective for a fixed term, not to exceed eighteen
12 months, or to terminate the effectiveness of the protective order. A motion to modify
13 or terminate the effectiveness of the protective order may be granted only after a
14 good faith effort has been made to provide reasonable notice of the hearing to the
15 victim, the victim's designated agent, or the victim's counsel, and either of the
16 following occur:

17 ~~(i)~~ The victim, the victim's designated agent, or the victim's counsel is
18 present at the hearing or provides written waiver of such appearance.

19 ~~(ii)~~ After a good faith effort has been made to provide reasonable notice of
20 the hearing, the victim could not be located.

21 (2) Notwithstanding any other sentencing provision, if the defendant is
22 convicted of stalking a family member or household member as defined by R.S.
23 46:2132 or a dating partner as defined by R.S. 46:2151, the defendant shall be
24 required to complete a court-monitored domestic abuse intervention program as
25 defined by R.S. 14:35.3, and the court shall issue a protective order pursuant to
26 Paragraph (1) of this Subsection.

27 ~~(4)(3)(a)~~ Immediately upon granting a protective order, the court shall cause
28 to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2,

1 shall sign such order, and shall forward it to the clerk of court for filing, without
2 delay.

3 (b) The clerk of the issuing court shall send a copy of the Uniform Abuse
4 Prevention Order or any modification thereof to the chief law enforcement official
5 of the parish where the victim resides. A copy of the Uniform Abuse Prevention
6 Order shall be retained on file in the office of the chief law enforcement officer as
7 provided in this Subparagraph until otherwise directed by the court.

8 (c) The clerk of the issuing court shall transmit the Uniform Abuse
9 Prevention Order, or any modification thereof, to the Louisiana Protective Order
10 Registry pursuant to R.S. 46:2136.2, by facsimile transmission, mail, or direct
11 electronic input, where available, as expeditiously as possible, but no later than the
12 end of the next business day after the order is filed with the clerk of court.

13 G.(1) The Except as provided in Paragraph (2) of this Subsection, the
14 provisions of this Section shall not apply to a private investigator licensed pursuant
15 to the provisions of Chapter 56 of Title 37 of the Louisiana Revised Statutes of 1950,
16 acting during the course and scope of his employment and performing his duties
17 relative to the conducting of an investigation.

18 (2) The exception provided in Paragraph (1) of this Subsection shall not
19 apply if the private investigator is retained by the defendant either personally or
20 through a third party.

21 * * *

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 499 Original 2017 Regular Session Schroder

Abstract: Requires the issuance of a protective order against persons convicted of stalking, requires certain stalking offenders to complete a domestic abuse intervention program, and provides relative to the exception for private investigators.

Present law (R.S. 14:40.2(A) and (B)) provides for the crime of stalking and provides criminal penalties for those who are convicted of the offense. As part of the penalties,

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

present law (R.S. 14:40.2(B)) requires any person convicted of stalking to undergo a psychiatric evaluation.

Present law further provides that upon motion of the district attorney or the court, the court may, in addition to any penalties imposed, issue a protective order that directs the defendant to refrain from abusing, harassing, interfering with the victim or the employment of the victim, or being physically present within a certain distance of the victim. The protective order shall be effective either for an indefinite period of time or for a fixed term which shall not exceed eighteen months.

Proposed law amends present law to require, instead of authorize, the issuance of the protective order which shall remain in effect until the defendant has completed the mandatory psychiatric evaluation and the court finds that the defendant no longer poses a threat of danger to the victim.

Proposed law further requires an offender convicted of stalking a family member, household member, or dating partner to complete a court-monitored domestic abuse intervention program as defined by present law.

Present law (R.S. 14:40.2(G)) provides for an exception to the crime of stalking for a private investigator licensed pursuant to present law, acting during the course and scope of his employment and performing his duties relative to the conducting of an investigation.

Proposed law provides that the present law exception to the crime of stalking for private investigators shall not apply to private investigators retained by the defendant, personally or through a third party.

(Amends R.S. 14:40.2(F) and (G))