

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 1142 by Representative Burrell

CRIMINAL/BAIL: Provides relative to bail restrictions for offenses against a family or household member or dating partner

Synopsis of Senate Amendments

1. Amends the time period within which the judge is required to forward the Uniform Abuse Prevention Order to the clerk of court for filing.
2. Adds a provision which requires a contradictory bail hearing prior to setting bail for a felony offense against a family or household member or dating partner and provides relative to the procedure for and evidence presented at such hearings.
3. Authorizes the court in certain cases to order that the defendant be held without bail pending trial and authorizes the court to require, as a condition of bail, that the defendant wear an electronic monitoring device and be placed under active electronic monitoring.
4. Provides that these newly added provisions are to be referred to as "Gwen's Law".

Digest of Bill as Finally Passed by Senate

Proposed law requires a contradictory bail hearing for a felony offense against the defendant's family or household member or dating partner as defined by present law, provides for the timing of such hearings, and provides relative to the evidence and factors that the court shall take into consideration at the hearing.

Proposed law authorizes the court, upon proof by clear and convincing evidence either that the defendant might flee, that the defendant poses a threat or danger to the victim, or that the defendant poses an imminent danger to any other person or the community, to order the defendant be held without bail pending trial.

Proposed law also authorizes the court to require the defendant, as a condition of bail, to wear an electronic monitoring device and to be placed under active electronic monitoring.

Provides that these provisions of proposed law shall be cited as and referred to as "Gwen's Law".

Present law provides that in determining conditions of release of a defendant who is alleged to have committed an offense against the defendant's family or household member, the court shall consider whether the defendant poses a threat or danger to the victim.

Present law further provides that if the court determines that the defendant poses a threat or danger, it shall require, as a condition of bail, that the defendant refrain from going to the residence or household of the victim, the victim's school, and the victim's place of employment or otherwise contacting the victim in any manner, and shall refrain from having any further contact with the victim.

Proposed law retains present law and provides for the following:

- (1) If the judge orders the defendant to refrain from going to the residence, school, or place of employment of the victim, or otherwise contacting the victim pursuant to the provisions of present law, 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 next business day after the order is issued.

- (2) The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court.
- (3) The clerk of the issuing court shall also 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. 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.
- (4) If, as part of a bail restriction, an order is issued pursuant to the provisions of proposed law, the court shall also order that the defendant be prohibited from possessing a firearm, as defined by proposed law, for the duration of the Uniform Abuse Prevention Order.

Present law provides that in determining conditions of release of a defendant who is alleged to have committed the crime of stalking, the court shall issue a Uniform Abuse Prevention Order if the court determines that the defendant poses a threat or danger to the victim.

Present law provides for the crime of violation of protective orders and provides for the duties of law enforcement relative to the violation of protective orders.

Proposed law adds violations of a protective order issued pursuant to the provisions of proposed law and protective orders issued as a condition of bail for the crime of stalking to the crime of violation of protective orders.

Present law provides for the La. Protective Order Registry which encompasses temporary restraining orders, protective orders, preliminary injunctions, permanent injunctions, and court-approved consent agreements that are issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to, another person to prevent domestic abuse or dating violence.

Proposed law adds a protective order issued pursuant to the provisions of proposed law and orders issued as a condition of bail for the crime of stalking to the list of orders encompassed in the La. Protective Order Registry.

(Amends R.S. 14:79(A)(1)(a) and (E), R.S. 46:2136.2(B), and C.Cr.P. Art. 335.1(A)(1); Adds C.Cr.P. Art. 330.3)