

## HOUSE SUMMARY OF SENATE AMENDMENTS

**HB 842**

**2015 Regular Session**

**Moreno**

DOMESTIC ABUSE: Provides relative to domestic abuse

### Synopsis of Senate Amendments

1. Changes proposed law to increase the maximum term of imprisonment from one year to two years for a third or subsequent conviction for violation of protective orders which does not involve a battery or a crime of violence against the person protected by the protective order.
2. Removes change from proposed law that required the sentence imposed for a first offense violation of protective orders that does not involve a battery or crime of violence against the person protected by the protective order to be served with or without hard labor.
3. Changes proposed law to increase the maximum term of imprisonment from one year to two years for a second conviction for violation of protective orders that does involve a battery or a crime of violence against the person protected by the protective order.
4. Relative to the proposed law provision requiring the prosecutor to include certain information in the indictment, information, or affidavit when instituting the prosecution of certain domestic-abuse offenses:
  - (a) Removes the provision that required the prosecutor to include the relationship of the defendant to the victim.
  - (b) Requires the prosecutor to include the date of the offense instead of the date of arrest.
5. Makes a technical correction.

### Digest of Bill as Finally Passed by Senate

Present law provides for all of the following:

- (1) Defines the crime of domestic abuse battery as the intentional use of force or violence committed by one household member upon the person of another household member and provides a definition for "household member".
- (2) Requires any offender placed on probation for domestic abuse battery to participate in a court-monitored domestic abuse intervention program and provides that such program shall be comprised of a minimum of 26 in-person sessions.
- (3) Provides that for the purpose of determining whether an offender has a prior conviction of domestic abuse battery, a conviction under the laws of any state statute or ordinance that prohibits the intentional use of force or violence committed by one household member upon another household member shall constitute a prior conviction.
- (4) Defines the crime of domestic abuse aggravated assault as an assault with a dangerous weapon committed by one household member upon another household member and provides a definition of "household member".

- (5) Defines the crime of stalking as the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress and provides that stalking shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnaping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted.
- (6) Provides that the crime of violation of protective orders includes the willful disobedience of an order issued to require a defendant to stay away from a specific person or persons as a condition of his release on bond, probation, or parole. Further provides for increased penalties for violations of protective orders which involve a battery or crime of violence against the person who is protected by the protective order.
- (7) Prohibits any person against whom the court has issued a permanent injunction or a protective order relative to domestic abuse from possessing a firearm for the duration of the injunction or protective order if it includes a finding that the person subject to the permanent injunction or protective order represents a credible threat to the physical safety of a family member or household member and the permanent injunction or protective order informs the person subject to the permanent injunction or protective order that the person is prohibited from possessing a firearm pursuant to both state and federal law.
- (8) Requires the La. Bureau of Criminal Identification and Information to obtain and file the name, fingerprints, description photographs, and any other pertinent identifying data of certain persons, including but not limited to any person who was arrested for certain offenses, who is incarcerated, who is a fugitive from justice, or who is a habitual offender.

Proposed law provides for all of the following:

- (1) Expands the crimes of domestic abuse battery and domestic abuse aggravated assault to include family members as possible victims.
- (2) Defines "family member" and amends the definition of "household member" for the crimes of domestic abuse battery and domestic abuse aggravated assault.
- (3) Amends the definition of "court-monitored domestic abuse intervention program" to require that the 26 in-person sessions occur over a minimum of 26 weeks.
- (4) Amends present law to provide that a prior conviction of domestic abuse battery also includes a conviction under the laws of any state or ordinance that prohibits the intentional use of force or violence committed against a family member.
- (5) Expands the crime of stalking to specifically include written threats.
- (6) Increases the maximum term of imprisonment from six months to two years for a third or subsequent conviction for the crime of violation of protective orders that does not involve a battery or crime of violence against the person protected by the protective order. Further provides that the sentence shall be served with or without hard labor.
- (7) Increases the maximum term of imprisonment from six months to two years and increases the minimum mandatory sentence from 14 days to 30 days for a second conviction that involves a battery or crime of violence against the person protected by the protective order. Further provides that the sentence shall be served with or

without hard labor.

- (8) Amends all references of "court-approved domestic abuse counseling program" in the present law crime of violation of protective orders to provide that the offender shall participate in a "court-monitored domestic abuse intervention program" as defined in the crime of domestic abuse battery.
- (9) Expands the present law prohibition on the possession of firearms for the duration of a permanent injunction or protective order to any person against whom a protective order or permanent injunction was issued pursuant to a court-approved consent agreement, pursuant to the Protection from Stalking Act, or as a condition of release on bail for an offense against a family or household member or dating partner.
- (10) Amends present law to require the La. Bureau of Criminal Identification and Information to obtain and file the name, fingerprints, description photographs, and any other pertinent identifying data of any person who has been arrested, or has been issued a summons and subsequently convicted, for a violation of any state law or local ordinance that prohibits the use of force or a deadly weapon against any family member or household member.
- (11) When instituting the prosecution of an offense involving the use of force or a deadly weapon against any family member or household member, requires the prosecutor to include the following information in the indictment, information, or affidavit: date of the offense and the state identification number of the defendant if one has been assigned to the defendant for this offense or for any prior offenses. Provides that the failure to comply with these provisions of proposed law shall not constitute grounds for a motion to quash.

(Amends R.S. 14:35.3(A), (B)(3)(intro. para.), (4), (5), and (6), and (G), 37.7(A) and (B), 40.2(A), and 79(B)(2) and (3), (C)(1) and (2), and (H), R.S. 15:590(intro. para.), and R.S. 46:2136.3(A)(intro. para.); Adds R.S. 14:35.3(B)(7), R.S. 15:590(8), and C.Cr.P. Art. 387)