

2020 Regular Session

HOUSE BILL NO. 727

BY REPRESENTATIVE WHITE

(On Recommendation of the Louisiana State Law Institute)

FAMILY VIOLENCE: Provides for the definition of domestic abuse

1 AN ACT

2 To amend and reenact Civil Code Articles 103(4) and (5), 112(B)(9), 134, 136(A), the

3 heading of Title VI of Book I of the Civil Code, and Civil Code Articles 2315.8(A)

4 and 2362.1(B), Code of Civil Procedure Articles 891(B), 3603.1(A) and (C)(1),

5 3604(C)(1), 3607.1, 3610, and 3945(G), Children's Code Articles 652(E)(2), 1564,

6 1565, 1566(C), 1567(A)(3) and (B), 1568(A)(1), (3), and (4) and (C),

7 1569(A)(introductory paragraph), (B), and (D), 1570(A)(introductory paragraph),

8 1570.1(A), and 1573(introductory paragraph) and (4), Code of Evidence Article

9 412.5(A), Code of Criminal Procedure Articles 313(A)(2), 320(G)(1) and (I)(1)(a),

10 321(C)(19), 893(A)(2), 895(M)(1), 899.2(D)(5) and (6), 900(A)(6)(d)(iii), the

11 heading of Title XXXV of the Code of Criminal Procedure, and Code of Criminal

12 Procedure Articles 1001(1), (2), and (4) and 1002(A)(2)(a), R.S. 9:314, 345(B),

13 355.2(D)(2), 358.2, 358.3(B)(8), 359.13, the heading of Part IV of Chapter 1 of Code

14 Title V of Code Book I of Title 9 of the Louisiana Revised Statutes of 1950, and R.S.

15 9:361, 362(1), (3)(c), (4), (5), (6), and (7), 363, 364, 365, 366(A), 367, 369, 372(A)

16 and (C), 2603(B)(4)(a), 2800.9(A), 3261.1(B)(2) and (C)(2), and 4103(B)(1), R.S.

17 13:621.21(B)(2) and (C)(2), 621.22(B)(3), 721(E)(2)(l), 1802(4), 1819(B)(1),

18 1821(A)(2), 1830(B)(3), 1852(4), 1856(4) and (5), 1857(A)(4), 1858(B), 1859(D),

19 2106(B), and 5304(B)(10)(introductory paragraph) and (b), R.S. 14:79(A)(1)(a) and

20 (E), R.S. 15:257.1(C)(1)(c), 574.7(C)(2)(a)(x) and (4)(e) and (f), 574.9(H)(2)(c),

21 587.8(A) and (B)(3)(introductory paragraph), (a), (b), and (d) and (7), R.S.

22 17:7.2(A)(6), R.S. 22:1063(A)(1)(g) and 1078(A), R.S. 33:9701(C)(2), R.S.

1 37:2554(B)(2)(b), R.S. 39:1619(A)(3)(introductory paragraph), (a), (f), and (g), R.S.
2 40:506(D), 1379.3.2(A), 2405.8(E)(1)(introductory paragraph), (a), and (g) and (2)
3 and (I)(3)(a)(i) and (b), and 2533(C)(1), R.S. 44:3(A)(6) and (J)(3), and R.S.
4 46:52.1(F)(3)(a)(v), 236.5(C)(1) and (3)(k), 236.10(C)(2)(d)(i), 1842(15)(d),
5 1844(C)(2), 1845(C)(2), 1846(A) and (C), 1861(A)(1)(a), 2131, 2132(3) and (4),
6 2133(B)(3) and (D), 2134(A)(1), (2), and (3) and (C), 2135(A)(introductory
7 paragraph), (B), and (D), 2136(A)(introductory paragraph), 2136.1(A), 2136.2(A)
8 and (B), 2136.3(A)(introductory paragraph), 2138(C), 2140(A), (B)(introductory
9 paragraph) and (4), and (C)(1), (2)(introductory paragraph), (e), and (g), and (3)(b),
10 and 2143(A), (B), and (C), to enact Civil Code Article 162, and to repeal R.S. 9:341
11 and R.S. 46:1844(W)(5)(d), 2121.1, 2140(C)(4), and 2151, relative to domestic
12 abuse; to provide for a civil definition of domestic abuse; to provide consistent
13 terminology; to provide for cross references; to provide for the determination of
14 support; to provide for consideration of factors in determining the best interest of a
15 child; to provide for the definition of dating partner; to provide for the
16 Post-Separation Domestic Abuse Relief Act; to provide for child custody and
17 visitation when domestic abuse has occurred; to provide for court costs and attorney
18 fees; to provide for the Domestic Abuse Assistance Act; to provide for the Protection
19 From Family Violence Act; to repeal the Protection From Dating Violence Act; and
20 to provide for related matters.

21 Be it enacted by the Legislature of Louisiana:

22 Section 1. Civil Code Articles 103(4) and (5), 112(B)(9), 134, 136(A), the heading
23 of Title VI of Book I of the Civil Code, and Civil Code Articles 2315.8(A) and 2362.1(B)
24 are hereby amended and reenacted, and Civil Code Article 162 is hereby enacted, to read as
25 follows:

26 Art. 103. Judgment of divorce; other grounds

27 Except in the case of a covenant marriage, a divorce shall be granted on the
28 petition of a spouse upon proof that:

29 * * *

1 (4) During the marriage, the other spouse ~~physically or sexually abused the~~
2 ~~spouse seeking divorce or a child of one of the spouses, regardless of whether the~~
3 ~~other spouse was prosecuted for the act of abuse~~ committed domestic abuse as
4 defined in Article 162.

5 (5) After a contradictory hearing or consent decree, a protective order or an
6 injunction was issued during the marriage against the other spouse to protect the
7 spouse seeking the divorce or a child of one of the spouses from domestic abuse.

8 Revision Comments - 2020

9 Physical and sexual abuse were formerly listed expressly. In this revision,
10 express reference to these forms of abuse has been deleted, but physical and sexual
11 abuse continue to meet the definition of domestic abuse in Article 162.

12 * * *

13 Art. 112. Determination of final periodic support

14 * * *

15 B. The court shall consider all relevant factors in determining the amount
16 and duration of final support, including:

17 * * *

18 (9) The existence, effect, and duration of any act of domestic abuse
19 ~~committed by the other spouse upon the claimant or a child of one of the spouses,~~
20 ~~regardless of whether the other spouse was prosecuted for the act of domestic~~
21 ~~violence~~ during the marriage.

22 * * *

23 Art. 134. Factors in determining child's best interest

24 A. Except as provided in Paragraph B of this Article, the court shall
25 consider all relevant factors in determining the best interest of the child, including:

26 (1) The potential for the child to be abused, ~~as defined by Children's Code~~
27 ~~Article 603, which shall be the primary consideration~~ or to be exposed to domestic
28 abuse.

29 (2) The existence, effect, and duration of any act of domestic abuse
30 committed by a party.

1 (3) The love, affection, and other emotional ties between each party and the
2 child.

3 ~~(3)~~(4) The capacity and disposition of each party to give the child love,
4 affection, and spiritual guidance and to continue the education and rearing of the
5 child.

6 ~~(4)~~(5) The capacity and disposition of each party to provide the child with
7 food, clothing, medical care, and other material needs.

8 ~~(5)~~(6) The length of time the child has lived in a stable, adequate
9 environment, and the desirability of maintaining continuity of that environment.

10 ~~(6)~~(7) The permanence, as a family unit, of the existing or proposed
11 custodial home or homes.

12 ~~(7)~~(8) The moral fitness of each party, insofar as it affects the welfare of the
13 child.

14 ~~(8)~~(9) The history of substance abuse, violence, or criminal activity of any
15 party.

16 ~~(9)~~(10) The mental and physical health of each party. ~~Evidence that an~~
17 ~~abused parent suffers from the effects of past abuse by the other parent shall not be~~
18 ~~grounds for denying that parent custody.~~

19 ~~(10)~~(11) The home, school, and community history of the child.

20 ~~(11)~~(12) The reasonable preference of the child, if the court deems the child
21 to be of sufficient age to express a preference.

22 ~~(12)~~(13) The willingness and ability of each party to facilitate and encourage
23 a close and continuing relationship between the child and the other party, except
24 when ~~objectively substantial evidence of specific abusive, reckless, or illegal conduct~~
25 ~~has caused one party to have~~ has reasonable concerns for the child's safety or well-
26 being while in the care of the other party.

27 ~~(13)~~(14) The distance between the respective residences of the parties.

28 ~~(14)~~(15) The responsibility for the care and rearing of the child previously
29 exercised by each party.

1 B. ~~In cases involving a history of committing family violence, as defined in~~
 2 ~~R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, including sexual abuse,~~
 3 ~~as defined in R.S. 14:403(A)(4)(b), whether or not a party has sought relief under~~
 4 ~~any applicable law, the court shall determine an award of custody or visitation in~~
 5 ~~accordance with R.S. 9:341 and 364. The court may only find a history of~~
 6 ~~committing family violence if the court finds that one incident of family violence has~~
 7 ~~resulted in serious bodily injury or the court finds more than one incident of family~~
 8 ~~violence.~~ Evidence that a parent suffers from the effects of past domestic abuse by
 9 the other parent shall not be the sole grounds for denying that parent custody.

10 C. In cases involving domestic abuse, the court shall award custody or
 11 visitation in accordance with R.S. 9:364.

Revision Comments - 2020

13 (a) The placement of factors related to domestic abuse at the start of this list
 14 is deliberate, as the existence of or potential for domestic abuse speaks directly to
 15 safety, and therefore, the child's best interest. Nonetheless, no one factor is to be
 16 considered to the exclusion of others, as all of the enumerated factors are significant
 17 and bear on the child's wellbeing. Moreover, the Post-Separation Domestic Abuse
 18 Relief Act limits custodial and visitation rights of perpetrators of domestic abuse
 19 substantially. R.S. 9:361 et seq.

20 (b) Under Paragraph B, when considering the mental and physical health of
 21 the abused party, the judge must consider the effects of past domestic abuse on both
 22 mental and physical health.

23 (c) When domestic abuse is alleged, the court is required to consider relevant
 24 statutes, including the Post-Separation Domestic Abuse Relief Act, even when those
 25 acts are not specifically pleaded. See, e.g., Melancon v. Russell, 258 So. 3d 955 (La.
 26 App. 5th Cir. 2018).

* * *

Art. 136. Award of visitation rights

29 A. Subject to ~~R.S. 9:341 and 364~~ R.S. 9:364, a parent not granted custody
 30 or joint custody of a child is entitled to reasonable visitation rights unless the court
 31 finds, after a hearing, that visitation would not be in the best interest of the child.

* * *

1 TITLE VI. ~~OF MASTER AND SERVANT~~ DOMESTIC ABUSE

2 Art. 162. Domestic abuse definition

3 Each of the following constitutes domestic abuse when committed by one
4 family member, current or former household member, or dating partner against
5 another:

6 (1) Physical or sexual abuse and any offense against the person, physical or
7 non-physical, as defined in the Louisiana Criminal Code, or the threat thereof, except
8 negligent injury and defamation, regardless of whether the perpetrator was
9 prosecuted.

10 (2) Any act or threat to act that is intended to coerce, control, punish,
11 intimidate, or exact revenge on the other party, for the purpose of preventing the
12 victim from reporting to law enforcement or requesting medical assistance or
13 emergency or victim services, or for the purpose of depriving the victim of the means
14 or ability to resist the abuse or escape the relationship.

15 Revision Comments – 2020

16 (a) For offenses against the person, see R.S. 14:29 through 50.2.

17 (b) The singular includes the plural, and vice versa. See Article 3506 and
18 R.S. 1:7. Accordingly, domestic abuse as defined in this Article may be proved by
19 a pattern of behavior or an individual act or threat to act.

20 (c) Under Subparagraph (2), acts such as maintaining financial control over
21 an individual’s resources for the purpose of creating dependence, withholding access
22 to money or credit cards, forbidding attendance at school or employment, stealing
23 assets, or withholding physical resources such as food, clothing, necessary
24 medications, or shelter to deprive them of the means or ability to resist or escape,
25 may rise to the level of domestic abuse. Cf., e.g., 19-A Maine Revised Statutes
26 Annotated §4002, Subsec. 3-B.

27 * * *

28 Art. 2315.8. Liability for damages caused by domestic abuse

29 A. In addition to general and special damages, exemplary damages may be
30 awarded upon proof that the injuries on which the action is based were caused by a
31 wanton and reckless disregard for the rights and safety of a family member or
32 household member, ~~as defined in R.S. 46:2132,~~ through acts of domestic abuse

1 resulting in serious bodily injury or severe emotional and mental distress, regardless
2 of whether the defendant was prosecuted for ~~his or her~~ the acts.

3 * * *

4 Revision Comments - 2020

5 The term "domestic abuse" is defined in Article 162.

6 * * *

7 Art. 2362.1. Obligation incurred in an action for divorce

8 * * *

9 B. The obligation for attorney fees and costs incurred by the perpetrator of
10 domestic abuse or awarded against him in an action for divorce granted pursuant to
11 Article 103(4) or (5) or in an action in which the court determines that a spouse or
12 a child of one of the spouses was the victim of domestic abuse committed by the
13 perpetrator during the marriage, and in incidental actions, shall be a separate
14 obligation of the perpetrator.

15 Section 2. Code of Civil Procedure Articles 891(B), 3603.1(A) and (C)(1),
16 3604(C)(1), 3607.1, 3610, and 3945(G) are hereby amended and reenacted to read as
17 follows:

18 Art. 891. Form of petition

19 * * *

20 B. For petitions involving domestic ~~violence~~ abuse brought pursuant to R.S.
21 46:2131 et seq., R.S. 9:361 et seq., Children's Code Article 1564 et seq., or Code of
22 Civil Procedure Article 3601 et seq., the address and parish of the residence of each
23 petitioner and each person on whose behalf the petition is filed may remain
24 confidential with the court.

25 * * *

1 Art. 3603.1. Governing provisions for issuance of protective orders; grounds;
2 notice; court-appointed counsel

3 A. Notwithstanding any provision of law to the contrary, and particularly the
4 provisions of ~~Domestic Abuse Assistance, Part II of Chapter 28 of Title 46, Post-~~
5 ~~Separation Family Violence Relief Act and Injunctions and Incidental Orders, Parts~~
6 ~~IV and V of Chapter 1 of Code Title V of Title 9, Domestic Abuse Assistance,~~
7 ~~Chapter 8 of Title XV of the Children's Code~~ the Domestic Abuse Assistance Acts
8 in R.S. 46:2131 et seq. and Children's Code Article 1564 et seq., the Post-Separation
9 Domestic Abuse Relief Act, R.S. 9:361 et seq., Part V of Chapter 1 of Code Title V
10 of Code Book I of Title 9 of the Louisiana Revised Statutes of 1950, and this
11 Chapter, no temporary restraining order or preliminary injunction prohibiting a
12 spouse or other person from harming or going near or in the proximity of another
13 shall issue, unless the complainant has good and reasonable grounds to fear for ~~his~~
14 ~~or her~~ their safety or that of the children, or the complainant has in the past been the
15 victim of domestic abuse committed by the other spouse.

16 * * *

17 C.(1) A complainant seeking protection from domestic abuse, ~~dating~~
18 ~~violence~~, stalking, or sexual assault shall not be required to prepay or be cast with
19 court costs or costs of service of subpoena for the issuance or dissolution of a
20 temporary restraining order, preliminary or permanent injunction, or protective
21 order, or the dismissal of a petition for such, and the clerk of court shall immediately
22 file and process the order issued regardless of the ability of the plaintiff to pay court
23 costs.

24 * * *

25 Art. 3604. Form, contents, and duration of restraining order

26 * * *

1 C.(1) A temporary restraining order issued in conjunction with a rule to show
 2 cause for a protective order filed in an action pursuant to the ~~Protection from Family~~
 3 ~~Violence Act, R.S. 46:2121 et seq., and pursuant to the Protection From Dating~~
 4 ~~Violence Act, R.S. 46:2151~~ Domestic Abuse Assistance Acts in R.S. 46:2131 et seq.
 5 and Children's Code Article 1564 et seq., shall remain in force until a hearing is held
 6 on the rule for the protective order or for thirty days, whichever occurs first. If the
 7 initial rule to show cause is heard by a hearing officer, the temporary restraining
 8 order shall remain in force for fifteen days after the hearing or until the judge signs
 9 the protective order, whichever occurs last. At any time before the expiration of a
 10 temporary restraining order issued pursuant to this Paragraph, it may be extended by
 11 the court for a period not exceeding thirty days.

12 * * *

13 Art. 3607.1. Registry of temporary restraining order, preliminary injunction, or
 14 permanent injunction

15 A. Immediately upon rendering a decision granting the petitioner a
 16 temporary restraining order or a preliminary or permanent injunction prohibiting a
 17 ~~person from harming a family or household member or dating partner~~ domestic
 18 abuse, or directing a person accused of stalking to refrain from abusing, harassing,
 19 or interfering with the victim of the stalking when the parties are strangers or
 20 acquaintances, the judge shall cause to have prepared a Uniform Abuse Prevention
 21 Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately
 22 forward it to the clerk of court for filing on the day that the order is issued.

23 B. When a temporary restraining order, preliminary injunction, or permanent
 24 injunction relative to domestic abuse or ~~dating violence or relative to~~ stalking as
 25 provided for in Paragraph A of this Article, is issued, dissolved, or modified, the
 26 clerk of court shall transmit the Uniform Abuse Prevention Order to the ~~Judicial~~
 27 ~~Administrator's Office~~ judicial administrator's office, Louisiana Supreme Court, for
 28 entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A),

1 by facsimile transmission or direct electronic input as expeditiously as possible, but
 2 no later than the end of the next business day after the order is filed with the clerk
 3 of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse
 4 Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to
 5 the chief law enforcement officer of the parish where the person or persons protected
 6 by the order reside by facsimile transmission or direct electronic input as
 7 expeditiously as possible, but no later than the end of the next business day after the
 8 order is filed with the clerk of court. A copy of the Uniform Abuse Prevention Order
 9 shall be retained on file in the office of the chief law enforcement officer until
 10 otherwise directed by the court.

11 * * *

12 Art. 3610. Security for temporary restraining order or preliminary injunction

13 A temporary restraining order or preliminary injunction shall not issue unless
 14 the applicant furnishes security in the amount fixed by the court, except where
 15 security is dispensed with by law. The security shall indemnify the person
 16 wrongfully restrained or enjoined for the payment of costs incurred and damages
 17 sustained. However, no security is required when the applicant for a temporary
 18 restraining order or preliminary or permanent injunction is seeking protection from
 19 domestic abuse, ~~dating violence~~, stalking, or sexual assault.

20 * * *

21 Art. 3945. Incidental order of temporary child custody; injunctive relief; exceptions

22 * * *

23 G. The provisions of this Article do not apply to any order of custody of a
 24 child requested in a verified petition alleging the applicability of the Domestic Abuse
 25 Assistance Act, Acts in R.S. 46:2131 et seq.; and Children's Code Article 1564 et
 26 seq., or the Post-Separation ~~Family Violence~~ Domestic Abuse Relief Act, R.S. 9:361
 27 et seq.

1 Section 3. Children's Code Articles 652(E)(2), 1564, 1565, 1566(C), 1567(A)(3) and
2 (B), 1568(A)(1), (3), and (4) and (C), 1569(A)(introductory paragraph), (B), and (D),
3 1570(A)(introductory paragraph), 1570.1(A), and 1573(introductory paragraph) and (4) are
4 hereby amended and reenacted to read as follows:

5 Art. 652. Discovery

6 * * *

7 E.

8 * * *

9 (2) The court shall not order the production or inspection of any document
10 or information which contains identifying information regarding a victim of
11 domestic abuse ~~or victim of dating violence~~ as defined in ~~R.S. 46:2132 or 2151~~ Civil
12 Code Article 162, including physical or e-mail address, place of employment,
13 telephone number, safety plan, or other protective measure or resource considered,
14 implemented, planned, or accessed by the victim. The court shall not order the
15 production or inspection of any document or information which discloses the
16 location of a shelter or other facility which provides services to victims of domestic
17 abuse ~~or dating violence~~.

18 * * *

19 Art. 1564. Purpose

20 The purpose of this Chapter is to recognize and address the complex legal
21 and social problems created by domestic ~~violence~~ abuse and to provide a civil
22 remedy in the juvenile courts for domestic ~~violence~~ abuse in homes in which
23 children reside which will afford the victim immediate and easily accessible
24 protection.

25 Art. 1565. Definitions

26 ~~As used in this Chapter:~~

1 the ~~abused adult~~ victim of the abuse, or for any of the children, necessitated by the
2 domestic ~~violence~~ abuse.

3 * * *

4 Art. 1573. Law enforcement officers; duties

5 Whenever a law enforcement officer has reason to believe that ~~a family or~~
6 ~~household member has been abused~~ domestic abuse has occurred, the officer shall
7 immediately use all reasonable means to prevent further abuse, including:

8 * * *

9 (4) Notifying the abused person of his right to initiate criminal or civil
10 proceedings, the availability of the protective order pursuant to Article 1570, and the
11 availability of community assistance for domestic ~~violence~~ abuse victims.

12 Section 4. Code of Evidence Article 412.5(A) is hereby amended and reenacted to
13 read as follows:

14 Art. 412.5. Evidence of similar crimes, wrongs, or acts in certain civil cases

15 A. In any civil action alleging ~~acts of domestic abuse as defined in R.S.~~
16 ~~46:2132, family violence as defined in R.S. 9:362, or sexual abuse as defined in R.S.~~
17 ~~9:362~~ Civil Code Article 162, evidence of the defendant's commission of a crime,
18 wrong, or act involving acts of domestic abuse, ~~family violence, or sexual abuse~~ may
19 be admissible and may be considered for its bearing on any matter to which it is
20 relevant subject to the balancing test provided in Article 403.

21 * * *

22 Section 5. Code of Criminal Procedure Articles 313(A)(2), 320(G)(1) and (I)(1)(a),
23 321(C)(19), 893(A)(2), 895(M)(1), 899.2(D)(5) and (6), 900(A)(6)(d)(iii), the heading of
24 Title XXXV of the Code of Criminal Procedure, and Code of Criminal Procedure Articles
25 1001(1), (2), and (4) and 1002(A)(2)(a) are hereby amended and reenacted to read as
26 follows:

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

1 Art. 313. Gwen's Law; bail hearings; detention without bail

2 A.

3 * * *

4 (2) A contradictory bail hearing, as provided for in this Paragraph, may be
5 held prior to setting bail for a person in custody who is charged with domestic abuse
6 battery, violation of protective orders, stalking, or any felony offense involving the
7 use or threatened use of force or a deadly weapon upon the defendant's family
8 member, ~~as defined in R.S. 46:2132~~ or ~~upon the defendant's~~ household member as
9 defined in R.S. 14:35.3, or upon the defendant's dating partner, as defined in R.S.
10 ~~46:2151~~ 46:2132. If the court orders a contradictory hearing, the hearing shall be
11 held within five days from the date of determination of probable cause, exclusive of
12 weekends and legal holidays. At the contradictory hearing, the court shall determine
13 the conditions of bail or whether the defendant should be held without bail pending
14 trial. If the court decides not to hold a contradictory hearing, it shall notify the
15 prosecuting attorney prior to setting bail.

16 * * *

17 Art. 320. Conditions of bail undertaking

18 * * *

19 G. Domestic offenses, stalking, and sex offenses. (1) In determining
20 conditions of release of a defendant who is alleged to have committed an offense
21 against the defendant's family member or household member, ~~as defined in R.S.~~
22 ~~46:2132~~, or against the defendant's dating partner, as defined in R.S. ~~46:2151~~
23 46:2132, or who is alleged to have committed the offense of domestic abuse battery
24 under the provisions of R.S. 14:35.3, or who is alleged to have committed the offense
25 of stalking under the provisions of R.S. 14:40.2, or who is alleged to have committed
26 a sexual assault as defined in R.S. 46:2184, or who is alleged to have committed the
27 offense of first degree rape under the provisions of R.S. 14:42, the court shall

1 consider the previous criminal history of the defendant and whether the defendant
 2 poses a threat or danger to the victim. If the court determines that the defendant
 3 poses such a threat or danger, it shall require as a condition of bail that the defendant
 4 refrain from going to the residence or household of the victim, the victim's school,
 5 and the victim's place of employment or otherwise contacting the victim in any
 6 manner whatsoever, and shall refrain from having any further contact with the
 7 victim. The court shall also consider any statistical evidence prepared by the United
 8 States Department of Justice relative to the likelihood of such defendant or any
 9 person in general who has raped or molested victims under the age of thirteen years
 10 to commit sexual offenses against a victim under the age of thirteen in the future.

11 * * *

12 I. Global positioning monitoring. (1)(a) In addition, the court shall order a
 13 defendant who is alleged to have committed the offense of first degree rape under the
 14 provisions of R.S. 14:42 and may order a defendant who is alleged to have
 15 committed an offense against the defendant's family member or household member;
 16 ~~as defined in R.S. 46:2132~~; or against the defendant's dating partner, as defined in
 17 R.S. ~~46:2151~~ 46:2132, or who is alleged to have committed the offense of domestic
 18 abuse battery under the provisions of R.S. 14:35.3, or who is alleged to have
 19 committed the offense of stalking under the provisions of R.S. 14:40.2, or who is
 20 alleged to have committed a sexual assault as defined in R.S. 46:2184 to be equipped
 21 with a global positioning monitoring system as a condition of release on bail.

22 * * *

23 Art. 321. Types of bail; restrictions

24 * * *

25 C. Any defendant who has been arrested for any of the following offenses
 26 shall not be released on his personal undertaking or with an unsecured personal
 27 surety:

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* * *

(19) Violation of an order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 320, and 871.1.

* * *

Art. 893. Suspension and deferral of sentence and probation in felony cases

A.

* * *

(2) The court shall not suspend the sentence of a conviction for an offense that is designated in the court minutes as a crime of violence pursuant to Article 890.3, except a first conviction for an offense with a maximum prison sentence of ten years or less that was not committed against a family member or household member as defined by R.S. 14:35.3, or dating partner as defined by R.S. ~~46:2151~~ 46:2132. The period of probation shall be specified and shall not be more than five years.

* * *

Art. 895. Conditions of probation

* * *

M.(1) In all cases where the defendant has been convicted of ~~an offense of~~ domestic abuse as provided in R.S. 46:2132(3) to a family member or household member as ~~provided in R.S. 46:2132(4)~~, or of ~~an offense of dating violence as provided in R.S. 46:2151(C)~~ or to a dating partner as ~~provided in R.S. 46:2151(B)~~, the court shall order that the defendant submit to and successfully complete a court-approved course of counseling or therapy related to ~~family or dating violence~~ domestic abuse, for all or part of the period of probation. If the defendant has already completed such a counseling program, ~~said~~ the counseling requirement shall

1 be required only upon a finding by the court that ~~such~~ counseling or therapy would
2 be effective in preventing future domestic abuse ~~or dating violence~~.

3 * * *

4 Art. 899.2. Administrative sanctions for technical violations; offenses other than
5 crimes of violence or sex offenses

6 * * *

7 D. For purposes of this Article, "technical violation" means any violation of
8 a condition of probation, except that it does not include any of the following:

9 * * *

10 (5) An allegation of domestic abuse battery pursuant to R.S. 14:35.3
11 committed by one family member or household member against another, or battery
12 committed by one dating partner as defined by R.S. ~~46:2151~~ 46:2132 against
13 another.

14 (6) An allegation of a violation of a protective order, pursuant to R.S. 14:79,
15 issued against the offender to protect a family member or household member as
16 defined by R.S. 14:35.3, or a dating partner as defined by R.S. ~~46:2151~~ 46:2132.

17 * * *

18 Art. 900. Violation hearing; sanctions

19 A. After an arrest pursuant to Article 899, the court shall cause a defendant
20 who continues to be held in custody to be brought before it within thirty days for a
21 hearing. If a summons is issued pursuant to Article 899, or if the defendant has been
22 admitted to bail, the court shall set the matter for a violation hearing within a
23 reasonable time. The hearing may be informal or summary. The defendant may
24 choose, with the court's consent, to appear at the violation hearing and stipulate the
25 revocation by simultaneous audio-visual transmission in accordance with the
26 provisions of Article 562. If the court decides that the defendant has violated, or was
27 about to violate, a condition of his probation it may:

1 * * *

2 (6)

3 * * *

4 (d) A "technical violation", as used in this Paragraph, means any violation
5 except it shall not include any of the following:

6 * * *

7 (iii) An allegation of a criminal act that is subsequently proven to be a
8 violation of a protective order, pursuant to R.S. 14:79, issued against the offender to
9 protect a family member or household member as defined by R.S. 14:35.3, or dating
10 partner as defined by R.S. ~~46:2151~~ 46:2132.

11 * * *

12 TITLE XXXV. DOMESTIC ~~VIOLENCE~~ ABUSE PREVENTION FIREARM

13 TRANSFER

14 Art. 1001. Definitions

15 As used in this Title:

16 (1) "Dating partner" shall have the same meaning as provided in R.S.
17 ~~46:2151~~ or R.S. 14:34.9.

18 (2) "Family member" shall have the same meaning as provided in R.S.
19 ~~46:2132~~ or R.S. 14:35.3.

20 * * *

21 (4) "Household member" shall have the same meaning as provided in R.S.
22 ~~46:2132~~ or R.S. 14:35.3.

23 * * *

24 Art. 1002. Transfer of firearms

1 §358.3. Qualifications

2 * * *

3 B. The training specified in Paragraph (A)(3) of this Section shall include
4 instruction on all of the following:

5 * * *

6 (8) Domestic ~~violence~~ abuse and its effects on children and families.

7 * * *

8 §359.13. Applicability

9 The provisions of this Subpart shall not apply to any custody or visitation
10 order requested in a verified petition alleging the applicability of the Domestic
11 Abuse Assistance ~~Act~~ Acts, R.S. 46:2131 et seq.; or Children's Code Article 1564 et
12 seq.; or the Post-Separation ~~Family Violence~~ Domestic Abuse Relief Act, R.S. 9:361
13 et seq.

14 PART IV. POST-SEPARATION ~~FAMILY VIOLENCE~~ DOMESTIC ABUSE

15 RELIEF ACT

16 §361. Legislative findings

17 The legislature hereby reiterates its previous findings and statements of
18 purpose set forth in R.S. 46:2121 and 2131 relative to ~~family violence~~ and domestic
19 ~~violence~~ abuse. The legislature further finds that the problems of ~~family violence~~
20 domestic abuse do not necessarily cease when the victimized family is ~~legally~~
21 separated or divorced. In fact, the ~~violence~~ abuse often escalates, and child custody
22 and visitation become the new forum for the continuation of the abuse. Because
23 current laws relative to child custody and visitation are based on an assumption that
24 even divorcing parents are in relatively equal positions of power, and that such
25 parents act in the children's best interest, these laws often work against the protection
26 of the ~~children and the abused spouse in families with a history of family violence~~

1 victims of domestic abuse. Consequently, laws designed to act in the children's best
2 interest may actually effect a contrary result due to the unique dynamics of ~~family~~
3 ~~violence~~ domestic abuse.

4 §362. Definitions

5 As used in this Part:

6 (1) "Abused parent" means the parent who has not committed ~~family~~
7 ~~violence~~ domestic abuse.

8 * * *

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

14 * * *

15 (c) Training in the causes and dynamics of domestic ~~violence~~ abuse,
16 characteristics of batterers, victim safety, and sensitivity of victims.

17 (4) ~~"Family violence" includes but is not limited to physical or sexual abuse~~
18 ~~and any offense against the person as defined in the Criminal Code of Louisiana,~~
19 ~~except negligent injuring and defamation, committed by one parent against the other~~
20 ~~parent or against any of the children. Family violence does not include reasonable~~
21 ~~acts of self-defense utilized by one parent to protect himself or herself or a child in~~
22 ~~the family from the family violence of the other parent. "Domestic abuse" has the~~
23 same meaning as defined in Civil Code Article 162(1).

24 (5) "Injunction" means a temporary restraining order or a preliminary or a
25 permanent court ordered injunction, as defined in the Code of Civil Procedure, which
26 prohibits the ~~violent~~ abusive parent from in any way contacting the abused parent or
27 the children except for specific purposes set forth in the injunction, which shall be

1 limited to communications expressly dealing with the education, health, and welfare
2 of the children, or for any other purpose expressly agreed to by the abused parent.
3 All such injunctions shall prohibit the ~~violent~~ abusive parent, without the express
4 consent of the abused parent, from intentionally going within fifty yards of the home,
5 school, place of employment, or person of the abused parent and the children, or
6 within fifty feet of any of their automobiles, except as may otherwise be necessary
7 for court ordered visitation or except as otherwise necessitated by circumstances
8 considering the proximity of the parties' residences or places of employment. Such
9 injunctions shall be issued in the form of a Uniform Abuse Prevention Order and
10 transmitted to the Louisiana Protective Order Registry, as required by this Part.

11 (6) "Sexual abuse" includes but is not limited to acts which are prohibited
12 by R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.4, ~~78~~, 80, 81, 81.1, 81.2, 89 and 89.1.

13 (7) "Supervised visitation" means face-to-face contact between a parent and
14 a child which occurs in the immediate presence of a supervising person approved by
15 the court under conditions which prevent any physical abuse, threats, intimidation,
16 abduction, or humiliation of either the abused parent or the child. The supervising
17 person shall not be any relative, friend, therapist, or associate of the parent
18 perpetrating ~~family violence~~ domestic abuse. With the consent of the abused parent,
19 the supervising person may be a family member or friend of the abused parent. At
20 the request of the abused parent, the court may order that the supervising person shall
21 be a police officer or other competent professional. The parent who perpetrated
22 ~~family violence~~ domestic abuse shall pay any and all costs incurred in the
23 supervision of visitation. In no case shall supervised visitation be overnight or in the
24 home of the ~~violent~~ abusive parent.

25 §363. Ordered mediation prohibited

26 Notwithstanding any other provision of law to the contrary, in any separation,
27 divorce, child custody, visitation, child support, alimony, or community property
28 proceeding, no spouse or parent who satisfies the court that he or she, or any of the

1 children, has been the victim of ~~family violence~~ domestic abuse perpetrated by the
2 other spouse or parent shall be court ordered to participate in mediation.

3 §364. Child custody; visitation

4 A. ~~There is created a presumption that no parent who has a history of~~
5 ~~perpetrating family violence, as defined in R.S. 9:362, or domestic abuse, as defined~~
6 ~~in R.S. 46:2132, or has subjected any of his or her children, stepchildren, or any~~
7 ~~household member, as defined in R.S. 46:2132, to sexual abuse, as defined in R.S.~~
8 ~~14:403, or has willingly permitted another to abuse any of his children or~~
9 ~~stepchildren, despite having the ability to prevent the abuse, shall be awarded sole~~
10 ~~or joint custody of children. The court may find a history of perpetrating family~~
11 ~~violence if the court finds that one incident of family violence has resulted in serious~~
12 ~~bodily injury or the court finds more than one incident of family violence. There is~~
13 a presumption that a parent shall not be awarded joint or sole custody when a court
14 finds that the parent has committed domestic abuse that has resulted in serious bodily
15 injury or has committed more than one incident of domestic abuse, or when a parent
16 has willingly permitted another to abuse any of his children or stepchildren despite
17 having the ability to prevent the abuse.

18 B. ~~The presumption shall be overcome~~ After the rendition of a custody order
19 in accordance with Subsection A of this Section, a party may seek modification only
20 if the court finds all of the following by a preponderance of the evidence:

21 (1) The perpetrating parent has successfully completed a court-monitored
22 domestic abuse intervention program as defined in R.S. 9:362, or a treatment
23 program designed for sexual abusers, after the last instance of abuse.

24 (2) The perpetrating parent is not abusing alcohol or using illegal substances
25 scheduled in R.S. 40:964.

26 (3) The best interest of the child ~~or children~~, considering the factors listed
27 in Civil Code Article 134, requires the perpetrating parent's participation as a

1 custodial parent because of the other parent's absence, mental illness, substance
2 abuse, or other circumstance negatively affecting the child ~~or children~~.

3 C. The fact that the abused parent suffers from the effects of the domestic
4 abuse shall not be the sole grounds for denying that parent custody.

5 ~~D. E.~~ If the court finds that both parents have a history of perpetrating ~~family~~
6 ~~violence~~ domestic abuse, custody shall be awarded solely to the parent who is less
7 likely to continue to perpetrate ~~family violence~~ domestic abuse. In such a case, the
8 court shall mandate completion of a court-monitored domestic abuse intervention
9 program by the custodial parent. If necessary to protect the welfare of the child,
10 custody may be awarded to a suitable third person pursuant to Civil Code Article
11 133, provided that the person would not allow access to ~~a violent~~ an abusive parent
12 except as ordered by the court.

13 ~~E.D.~~ If the court finds that a parent has ~~a history of perpetrating family~~
14 ~~violence~~ committed domestic abuse that has resulted in serious bodily injury or has
15 committed more than one incident of domestic abuse, or when a parent has willingly
16 permitted another to abuse any of his children or stepchildren despite having the
17 ability to prevent the abuse, the court shall allow only supervised ~~child~~ visitation
18 with that parent ~~pursuant to R.S. 9:341~~. The court shall order supervised visitation
19 only if the abusive parent proves by a preponderance of the evidence that visitation
20 would be in the best interest of the child, and that visitation would not cause
21 physical, emotional, or psychological damage to the child. If supervised visitation
22 is allowed, the court shall order such restrictions, conditions, and safeguards as are
23 necessary to minimize any risk of harm to the child. All costs incurred in compliance
24 with the provisions of this Section shall be the responsibility of the abusive parent.

25 F. If any court finds, by clear and convincing evidence, that a parent has
26 sexually abused ~~his or her~~ the child ~~or children~~, the court shall prohibit all visitation
27 and contact between the abusive parent and the ~~children pursuant to R.S. 9:341~~ child.

1 Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief
 2 law enforcement officer of the parish where the person or persons protected by the
 3 order reside by facsimile transmission or direct electronic input as expeditiously as
 4 possible, but no later than the end of the next business day after the order is filed
 5 with the clerk of court. A copy of the Uniform Abuse Prevention Order shall be
 6 retained on file in the office of the chief law enforcement officer until otherwise
 7 directed by the court.

8 * * *

9 §367. Costs

10 In any ~~family violence~~ domestic abuse case, all court costs, attorney fees,
 11 costs of enforcement and modification proceedings, costs of appeal, evaluation fees,
 12 and expert witness fees incurred in furtherance of this Part shall be paid by the
 13 perpetrator of the ~~family violence~~ domestic abuse, including all costs of medical and
 14 psychological care for the ~~abused spouse~~ victim of the abuse, or for any of the
 15 children, necessitated by the ~~family violence~~ domestic abuse.

16 * * *

17 §369. Limitations

18 No public funds allocated to programs which provide services to victims of
 19 domestic ~~violence~~ abuse shall be used to provide services to the perpetrator of
 20 domestic ~~violence~~ abuse.

21 * * *

22 §372. Injunction against abuse; form; central registry

23 A. In a proceeding for divorce, a court may grant an injunction prohibiting
 24 a spouse from ~~physically or sexually abusing the other spouse or a child of either of~~
 25 ~~the parties~~ committing domestic abuse.

26 * * *

1 commences to run from the day the minor attains majority, and this prescription shall
2 be suspended for all purposes until the minor reaches the age of majority. ~~Abuse has~~
3 ~~the same meaning as provided in Louisiana Children's Code Article 603.~~ This
4 prescriptive period shall be subject to any exception of peremption provided by law.

5 * * *

6 §3261.1. Lease agreements for certain residential dwellings; domestic abuse victims

7 * * *

8 B. Definitions

9 * * *

10 (2) "Domestic abuse" ~~means domestic abuse battery as defined in R.S.~~
11 ~~14:35.3~~ has the same meaning as in Civil Code Article 162, provided that the
12 domestic abuse was committed on the leased premises.

13 * * *

14 C.

15 * * *

16 (2) A lease provision prohibited under this Subsection shall be ~~null, void,~~
17 ~~and unenforceable~~ absolutely null.

18 * * *

19 §4103. Referral of a case for mediation; exceptions

20 * * *

21 B. The following types of proceedings shall not be referred to mediation
22 pursuant to this Chapter:

23 (1) Actions brought pursuant to the ~~Post-Separation Family Violence~~
24 Domestic Abuse Relief Act, R.S. 9:361 et seq., or the Domestic Abuse Assistance
25 Act, Acts in R.S. 46:2131 et seq. and Children's Code Article 1564 et seq.

1

* * *

2

Section 7. R.S. 13:621.21(B)(2) and (C)(2), 621.22(B)(3), 721(E)(2)(1), 1802(4),
1819(B)(1), 1821(A)(2), 1830(B)(3), 1852(4), 1856(4) and (5), 1857(A)(4), 1858(B),
1859(D), 2106(B), and 5304(B)(10)(introductory paragraph) and (b) are hereby amended
and reenacted to read as follows:

6

§621.21. Twenty-First Judicial District

7

* * *

8

B.

9

* * *

10

(2) There is hereby created a new judgeship effective January 1, 2015. This

11

judge and his successors shall preside over Division J, which is hereby created for

12

purposes of nomination, election, and subject matter. The subject matter jurisdiction

13

of Division J is limited, under the provisions of Article V, Section 15(A) of the

14

Constitution of Louisiana, to family and juvenile matters as provided by law. For

15

purposes of this Subsection, "family matters" shall include all actions arising under

16

Titles V and VII of Book I and Title VI of Book III of the ~~Louisiana~~ Civil Code,

17

adoptions arising under the ~~Louisiana~~ Civil Code and the ~~Louisiana~~ Children's Code,

18

actions involving protection from ~~family violence pursuant to R.S. 46:2131 et seq.~~

19

domestic abuse as defined in Civil Code Article 162, and actions for enforcement,

20

collection of support, and paternity pursuant to R.S. 46:236.5. The jurisdiction or

21

term of office of any other judge of the district shall not be affected or reduced by

22

the creation of this judgeship.

23

* * *

1 C.

2 * * *

3 (2) There is hereby created a new judgeship effective January 1, 2015. The
4 judge and his successors shall preside over Division K, which is hereby created for
5 purposes of nomination, election, and subject matter. The subject matter jurisdiction
6 of Division K is limited, under the provisions of Article V, Section 15(A) of the
7 Constitution of Louisiana, to family and juvenile matters as provided by law. For
8 purposes of this Subsection, "family matters" shall include all actions arising under
9 Titles V and VII of Book I and Title VI of Book III of the ~~Louisiana~~ Civil Code,
10 adoptions arising under the ~~Louisiana~~ Civil Code and the ~~Louisiana~~ Children's Code,
11 actions involving protection from ~~family violence pursuant to R.S. 46:2131 et seq.~~
12 domestic abuse as defined in Civil Code Article 162, and actions for enforcement,
13 collection of support, and paternity pursuant to R.S. 46:236.5. The jurisdiction or
14 term of office of any other judge of the district shall not be affected or reduced by
15 the creation of this judgeship.

16 * * *

17 §621.22. Twenty-Second Judicial District

18 * * *

19 B. There are hereby created two additional district judgeships for the Twenty-
20 Second Judicial District for the parishes of St. Tammany and Washington.

21 * * *

22 (3) For purposes of this Subsection, "family and juvenile matters" shall
23 include all actions arising under Titles IV, V, and VII of Book I and Title VI of Book
24 III of the Civil Code and related provisions of the Civil Code Ancillaries, all actions
25 arising under the Children's Code, adoptions arising under the Civil Code, actions
26 involving protection from ~~family violence pursuant to R.S. 46:2131 et seq.~~ domestic

1 (3) Whether any proceeding has been commenced that could affect the
2 current proceeding, including proceedings relating to domestic ~~violence~~ abuse,
3 protective orders, termination of parental rights, and adoptions and, if so, identify the
4 court, the case number, and the nature of the proceeding.

5 * * *

6 §1852. Definitions

7 For purposes of this Part, the following terms shall have the following
8 meanings unless the context clearly indicates otherwise:

9 * * *

10 (4) "Child-custody proceeding" means a proceeding in which legal custody,
11 physical custody, or visitation with respect to a child is at issue. The term includes
12 a proceeding for divorce, dissolution of marriage, separation, neglect, abuse,
13 dependency, guardianship, paternity, termination of parental rights, or protection
14 from domestic ~~violence~~ abuse.

15 * * *

16 §1856. Contents of petition

17 A petition under this Part shall be verified and include a copy of any existing
18 child-custody determination, if available. The petition shall specify the risk factors
19 for abduction, including the relevant factors described in R.S. 13:1857. Subject to
20 the provisions of R.S. 13:1821(E), if reasonably ascertainable, the petition shall
21 contain:

22 * * *

23 (4) A statement of whether a prior action to prevent abduction or domestic
24 ~~violence~~ abuse has been filed by a party or other individual or entity having custody
25 of the child, and the date, location, and disposition of the action.

1 (5) A statement of whether a party to the proceeding has been arrested for
2 a crime related to domestic ~~violence~~ abuse, stalking, or child ~~abuse~~ or neglect, and
3 the date, location, and disposition of the case.

4 * * *

5 §1857. Factors to determine risk of abduction

6 A. In determining whether there is a credible risk of abduction of a child, the
7 court shall consider all of the following factors and any evidence that the petitioner
8 or respondent:

9 * * *

10 (4) Has engaged in domestic ~~violence~~ abuse, stalking, or child ~~abuse~~ or
11 neglect.

12 * * *

13 §1858. Provisions and measures to prevent abduction

14 * * *

15 B. If, at a hearing on a petition under this Part or on the court's own motion,
16 the court after reviewing the evidence finds a credible risk of abduction of the child,
17 the court shall enter an abduction prevention order. The order shall include the
18 provisions required by Subsection A of this Section and measures and conditions,
19 including those in Subsections C, D, and E of this Section, that are reasonably
20 calculated to prevent abduction of the child, giving due consideration to the custody
21 and visitation rights of the parties. The court shall consider the age of the child, the
22 potential harm to the child from an abduction, the legal and practical difficulties of
23 returning the child to the jurisdiction if abducted, and the reasons for the potential
24 abduction, including evidence of domestic ~~violence~~ abuse, stalking, or child ~~abuse~~
25 or neglect.

26 * * *

1 §1859. Warrant to take physical custody of child

2 * * *

3 D. If feasible, before issuing a warrant and before determining the placement
4 of the child after the warrant is executed, the court may order a search of the relevant
5 databases of the National Crime Information Center system and similar state
6 databases to determine if either the petitioner or respondent has a history of domestic
7 ~~violence~~ abuse, stalking, or child abuse or neglect.

8 * * *

9 §2106. Particular courts; nonrefundable fee; assessment and disposition

10 * * *

11 B. In each criminal proceeding, involving ~~family violence as defined in R.S.~~
12 ~~46:2121.1~~ domestic abuse, simple or third degree rape, forcible or second degree
13 rape, aggravated or first degree rape, aggravated assault, aggravated battery, simple
14 battery, aggravated kidnapping, simple kidnapping, or false imprisonment, or any
15 attempt to commit the aforementioned crimes, a nonrefundable fee of twenty-five
16 dollars shall be collected by the clerk of the city court of Slidell and the clerk of the
17 Twenty-Second Judicial District Court, St. Tammany Parish, which shall be in
18 addition to all other fines, costs, or forfeitures lawfully imposed. If the defendant is
19 found guilty and placed on probation, the court shall, as a condition of probation
20 require the defendant to pay the additional fee at the time the defendant is placed on
21 probation. If the sentence of the court is incarceration, the fee shall be collected at
22 the time of imposition of sentence.

23 * * *

24 §5304. The drug division probation program

25 * * *

26 B. Participation in probation programs shall be subject to the following
27 provisions:

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

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* * *

(10) In order to be eligible for the drug division probation program, the defendant ~~must~~ shall satisfy each of the following criteria:

* * *

(b) The crime before the court cannot be a crime of violence as defined in R.S. 14:2(B), except a first conviction of an offense with a maximum prison sentence of ten years or less that was not committed against a family member or household member as defined by R.S. 14:35.3, or against a dating partner as defined by R.S. ~~46:2151~~ 46:2132, or an offense of domestic abuse battery that is punishable by imprisonment at hard labor as provided in R.S. 14:35.3.

* * *

Section 8. R.S. 14:79(A)(1)(a) and (E) are hereby amended and reenacted to read as follows:

§79. Violation of protective orders

A.(1)(a) Violation of protective orders is the willful disobedience of a preliminary or permanent injunction or protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 320 and 871.1 after a contradictory court hearing, or the willful disobedience of a temporary restraining order or any ex parte protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., criminal stay-away orders as provided for in Code of Criminal Procedure Article 320, Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 and 3607.1, if the defendant has been given notice of the temporary restraining order or ex parte protective order by service of process as required by law.

* * *

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

1 purpose of securing the attendance or testimony of a victim listed in a felony
2 prosecution in cases where the instituted charges are either:

3 * * *

4 (c) A case where the victim listed in the indictment or bill of information of
5 the current felony charge pending before the court is the current or former spouse or
6 the current or former dating partner as defined by R.S. ~~46:2151~~ 46:2132, regardless
7 of whether or not the individuals reside in the same household that is a pending
8 matter before a court.

9 * * *

10 §574.7. Custody and supervision of parolees; modification or suspension of
11 supervision; violation of conditions of parole; sanctions; alternative
12 conditions; administrative sanctions

13 * * *

14 C.

15 * * *

16 (2) The department shall promulgate rules to implement the provisions of
17 this Subsection to establish the following:

18 (a) A system of structured, administrative sanctions which shall be imposed
19 for technical violations of parole and which shall take into consideration the
20 following factors:

21 * * *

22 (x) Incarceration shall not be used for first or second violations of alcohol
23 use or admission, except for defendants convicted of operating a vehicle while
24 intoxicated pursuant to R.S. 14:98; defendants convicted of domestic abuse battery
25 pursuant to R.S. 14:35.3 committed by one family member or household member
26 against another; defendants convicted of battery by one dating partner as defined by

1 R.S. ~~46:215+~~ 46:2132 against another; or defendants convicted of a violation of a
2 protective order, pursuant to R.S. 14:79, issued against the defendant to protect a
3 family member or household member as defined by R.S. 14:35.3, or a dating partner
4 as defined by R.S. ~~46:215+~~ 46:2132.

5 * * *

6 (4) For purposes of this Subsection, "technical violation" means any
7 violation of a condition of parole, that does not include any of the following:

8 * * *

9 (e) An allegation of domestic abuse battery pursuant to R.S. 14:35.3
10 committed by one family member or household member against another, or an
11 allegation of battery committed by one dating partner as defined by R.S. ~~46:215+~~
12 46:2132 against another.

13 (f) An allegation of violation of a protective order, pursuant to R.S. 14:79,
14 issued against the offender to protect a family member or household member as
15 defined by R.S. 14:35.3, or a dating partner as defined by R.S. ~~46:215+~~ 46:2132.

16 * * *

17 §574.9. Revocation of parole for violation of condition; committee panels; return
18 to custody hearing; duration of reimprisonment and reparole after revocation;
19 credit for time served; revocation for a technical violation

20 * * *

21 H.

22 * * *

23 (2) A "technical violation", as used in this Subsection, means any violation
24 except it shall not include any of the following:

25 * * *

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

1 (c) An allegation of a criminal act that is subsequently proven to be a
2 violation of a protective order, pursuant to R.S. 14:79, issued against the offender to
3 protect a household member or family member as defined by R.S. 14:35.3, or dating
4 partner as defined by R.S. ~~46:2151~~ 46:2132.

5 * * *

6 §587.8. Access to criminal history system for victims of domestic abuse, victims of
7 human trafficking, ~~victims of dating violence~~, and victims of sexual assault.

8 A. In order to protect the integrity and the security of the family court and
9 civil court system and in order to obtain evidence in furtherance of Code of Evidence
10 Article 412.5, a licensed attorney who is counsel of record in a case involving a
11 victim of domestic abuse, human trafficking, ~~dating violence~~, or sexual assault shall
12 be allowed to access state criminal history records on a certain individual who is a
13 party or a witness in the civil cases in which the attorney is counsel of record.

14 B. For purposes of this Section, the following definitions shall apply:

15 * * *

16 (3) "Civil case" means a case filed in family court or other court of
17 competent jurisdiction where civil cases are heard related to allegations of domestic
18 abuse, ~~dating violence, family violence, violence against a child, violence against a~~
19 ~~spouse~~, sexual assault, or human trafficking, including but not limited to all of the
20 following:

21 (a) A civil case for an injunction or protective order sought pursuant to R.S.
22 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2161 et seq.,
23 R.S. 46:2171 et seq., or R.S. 46:2181 et seq., Children's Code Article 1564 et seq.,
24 or Code of Civil Procedure Articles 3604 or 3607.1.

25 (b) A civil case whereby evidence is admissible, pursuant to Code of
26 Evidence Article 412.5, related to acts of domestic abuse as defined in ~~R.S. 46:2132~~,

1 ~~family violence as defined in R.S. 9:362, dating violence as defined in R.S. 46:2151,~~
2 Civil Code Article 162 or sexual abuse as defined in R.S. 9:362.

3 * * *

4 (d) A civil case filed pursuant to Title V or VI of Book I of the Civil Code.

5 * * *

6 (7) "Witness" means a person who is not a party to the case but who may be
7 awarded custody or visitation of the child or who has had contact or may have future
8 contact with the child, the alleged victim, or the alleged perpetrator of domestic
9 abuse, human trafficking, ~~dating violence~~, or sexual assault.

10 * * *

11 Section 10. R.S. 17:7.2(A)(6) is hereby amended and reenacted to read as follows:

12 §7.2. Approved teacher education programs

13 A. In carrying out its responsibility to prescribe the qualifications and
14 provide for the certification of teachers under authority of R.S. 17:7(6), the State
15 Board of Elementary and Secondary Education, subject to the constitutional power
16 and authority of the Board of Regents, the Board of Supervisors for the University
17 of Louisiana System, the Board of Supervisors of Louisiana State University and
18 Agricultural and Mechanical College, and the Board of Supervisors of Southern
19 University and Agricultural and Mechanical College, shall establish qualifications
20 and requirements for the approval of teacher education programs from which
21 graduates may be certified. The qualifications and requirements established by the
22 State Board of Elementary and Secondary Education for an approved teacher
23 education program shall include but not be limited to the following:

24 * * *

25 (6) That the program shall include, for certification to teach grades seven
26 through twelve, training in teaching family life education and the use of methods and
27 materials to integrate this material into an existing course of study such as home

1 economics, science, health, physical hygiene, or physical education. For purposes
 2 of this Paragraph, "family life education" shall mean information and techniques as
 3 appropriate for the age of a student relative to family living and community
 4 relationships; the value of postponing sexual activity; human sexuality; human
 5 reproduction and contraception; the etiology, prevention, and effects of sexually
 6 transmitted diseases, including human acquired immunodeficiency virus disease
 7 (AIDS); the consequences of tobacco use and substance abuse; the consequences of
 8 the lack of and inadequate prenatal care; child neglect ~~and abuse~~; domestic ~~violence~~
 9 abuse; and the responsibilities of parenthood.

10 * * *

11 Section 11. R.S. 22:1063(A)(1)(g) and 1078(A) are hereby amended and reenacted
 12 to read as follows:

13 §1063. Prohibiting discrimination against individual participants and beneficiaries
 14 based on health status

15 A.(1) Subject to Paragraph (2) of this Subsection, a group health plan, and
 16 a health insurance issuer offering group health insurance coverage in connection with
 17 a group health plan, may not establish rules for eligibility, including continued
 18 eligibility, of any individual to enroll under the terms of the plan based on any of the
 19 following health status-related factors in relation to the individual or a dependent of
 20 the individual:

21 * * *

22 (g) Evidence of insurability, including conditions arising out of acts of
 23 domestic ~~violence~~ abuse.

24 * * *

25 §1078. Protections required for victims of the crime of domestic ~~violence~~ abuse

26 A. As used in this Section, the following terms shall be defined as follows:

1 §9701. Ensuring access to emergency services for victims of domestic abuse and
2 other crimes; parishes and municipalities; prohibited ordinances

3 * * *

4 C. As used in this Section, the following words and phrases shall have the
5 meaning ascribed to them in this Subsection, except as otherwise may be provided
6 or unless a different meaning is plainly required by the context:

7 * * *

8 (2) "Domestic abuse" has the same meaning as provided in ~~R.S. 46:2132~~
9 Civil Code Article 162.

10 * * *

11 Section 13. R.S. 37:2554(B)(2)(b) is hereby amended and reenacted to read as
12 follows:

13 §2554. Qualifications; examinations; certificates

14 * * *

15 B.

16 * * *

17 (2)

18 * * *

19 (b) Notwithstanding any provision of law to the contrary, in Orleans Parish
20 Civil District Court, electronic or audio recording may be utilized only in hearings
21 related to protection from abuse pursuant to R.S. 46:2131 et seq. ~~or R.S. 46:2151,~~
22 protection from stalking pursuant to R.S. 46:2171 et seq., and protection for victims
23 of sexual assault pursuant to R.S. 46:2181 et seq.

24 * * *

1 Section 14. R.S. 39:1619(A)(3)(introductory paragraph), (a), (f), and (g) are hereby
2 amended and reenacted to read as follows:

3 §1619. Social service contracts

4 A. Social services include:

5 * * *

6 (3) Protection for adults and children include services rendered by a
7 contractor to provide therapeutic intervention for adults or children who are in
8 danger or threatened with danger of physical or mental injury, neglect, maltreatment,
9 extortion, or exploitation, including victims of ~~family violence~~ domestic abuse.

10 These services include but are not limited to:

11 (a) Community planning for ~~neglect/abuse~~ neglect or abuse.

12 * * *

13 (f) Emergency shelter for, and services in support of, victims of rape/~~family~~
14 ~~violence or services in support of same~~ or domestic abuse.

15 (g) Training and evaluation services for ~~same~~ victims of rape or domestic
16 abuse.

17 * * *

18 Section 15. R.S. 40:506(D), 1379.3.2(A), 2405.8(E)(1)(introductory paragraph), (a),
19 and (g) and (2) and (I)(3)(a)(i) and (b), and 2533(C)(1) are hereby amended and reenacted
20 to read as follows:

21 §506. Termination of tenancy

22 * * *

23 D.(1) The local housing authority may not terminate the tenancy of a
24 household or a resident or terminate any other assistance provided by the authority
25 under Paragraph (B)(1) of this Section for reasons of domestic abuse, ~~dating~~
26 ~~violence, or family violence~~ as defined in Civil Code Article 162 committed against

1 the head of household, a member of household, or a resident. The local housing
2 authority may terminate the tenancy of or any other assistance provided to the
3 perpetrator of the domestic abuse, ~~dating violence, or family violence.~~

4 (2) For purposes of Paragraph (B)(1) of this Section, no person may be
5 considered a guest or invitee of a member of a household without the consent of the
6 head of household or a member of household. Consent is automatically withdrawn
7 when a guest or invitee ~~is a perpetrator of an act of~~ commits domestic abuse, ~~dating~~
8 ~~violence, or family violence.~~

9 (3) ~~As used in this Subsection:~~

10 (a) ~~"Domestic abuse" has the meaning as defined in R.S. 46:2132(3).~~

11 (b) ~~"Dating violence" has the meaning as defined in R.S. 46:2151(C).~~

12 (c) ~~"Family violence" has the meaning as defined in R.S. 9:362(3).~~

13 * * *

14 §1379.3.2. Temporary concealed handgun permit; protective order; time limitations

15 A. A person on whose behalf the court has issued a permanent injunction or
16 a protective order to bring about the cessation of domestic abuse ~~by one family~~
17 ~~member, household member, or dating partner~~ pursuant to a court-approved consent
18 agreement or pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372, R.S.
19 46:2136, ~~2151~~, or 2173, Children's Code Article 1570, Code of Civil Procedure
20 Article 3607.1, or Code of Criminal Procedure Articles 30, 320, or 871.1 and which
21 prohibits the subject of the order from possessing a firearm for the duration of the
22 injunction or protective order pursuant to the provisions of R.S. 46:2136.3 may apply
23 to the deputy secretary of public safety services of the Department of Public Safety
24 and Corrections for the issuance of a temporary concealed handgun permit.

25 * * *

26 §2405.8. Additional peace officer training requirements

1 * * *

2 E.(1) The council shall develop a domestic ~~violence~~ abuse awareness
3 training program in a series of modules to include all of the following:

4 (a) Dynamics of domestic ~~violence~~ abuse.

5 * * *

6 (g) Applicable state and federal domestic ~~violence~~ abuse laws.

7 (2) On and after July 1, 2018, each peace officer, as defined in R.S.
8 40:2402(3)(a), shall complete a domestic ~~violence~~ abuse awareness training program
9 as provided by the council.

10 * * *

11 I.

12 * * *

13 (3)(a) The council shall promulgate rules in accordance with the
14 Administrative Procedure Act for implementation of the following training programs
15 for peace officers as provided in Subsections E and F of this Section:

16 (i) Domestic ~~violence~~ abuse awareness training.

17 * * *

18 (b) The council shall create and maintain a list of peace officers who have
19 successfully completed the domestic ~~violence~~ abuse awareness training and the
20 training on communication with deaf or hard of hearing individuals.

21 * * *

22 §2533. Personnel files

23 * * *

24 C.(1) A law enforcement officer, upon written request, shall have any record
25 of a formal complaint made against the officer for any violation of a municipal or

1 parish ordinance or state criminal statute listed in Paragraph (2) of this Subsection
2 involving domestic ~~violence~~ abuse expunged from his personnel file, if the complaint
3 was made anonymously to the police department and the charges are not
4 substantiated within twelve months of the lodging of the complaint.

5 * * *

6 Section 16. R.S. 44:3(A)(6) and (J)(3) are hereby amended and reenacted to read as
7 follows:

8 §3. Records of prosecutive, investigative, and law enforcement agencies and
9 communications districts

10 A. Nothing in this Chapter shall be construed to require disclosures of
11 records, or the information contained therein, held by the offices of the attorney
12 general, district attorneys, sheriffs, police departments, Department of Public Safety
13 and Corrections, marshals, investigators, public health investigators, correctional
14 agencies, communications districts, intelligence agencies, Council on Peace Officer
15 Standards and Training, Louisiana Commission on Law Enforcement and
16 Administration of Criminal Justice, or publicly owned water districts of the state,
17 which records are:

18 * * *

19 (6) Records concerning status offenders as defined in the Children's Code ~~of~~
20 ~~Juvenile Procedure~~.

21 * * *

22 J.

23 * * *

24 (3) Nothing in this Chapter shall be construed to require the disclosure of
25 information which would reveal the address or contact information of a victim of a
26 crime against a family member, household member, or dating partner. ~~"Family~~

1 * * *

2 (2) The department shall implement procedures to safeguard any confidential
3 information contained in the state case registry, including the following:

4 * * *

5 (d)(i) If the department discloses information to a court, the department shall
6 advise the court if there is reasonable evidence of domestic ~~violence or child~~ abuse
7 perpetrated against a person or child who is the subject of the inquiry.

8 * * *

9 §1842. Definitions

10 In this Chapter:

11 * * *

12 (15) "Victim" means a person against whom any of the following offenses
13 have been committed:

14 * * *

15 (d) Any offense against the person as defined in the Criminal Code
16 committed against a family member or household member ~~as defined in R.S.~~
17 ~~46:2132~~ or dating partner as defined in R.S. ~~46:2151(B)~~ 46:2132.

18 * * *

19 §1844. Basic rights for victim and witness

20 * * *

21 C.

22 * * *

23 (2) All law enforcement or judicial agencies shall provide a private setting
24 for all interviewing of victims of crime. "Private setting" shall mean an enclosed
25 room from which the occupants are not visible or otherwise identifiable and whose

1 conversations cannot be heard from outside such room. Only those persons directly
 2 and immediately related to the interviewing of the victim, specifically the victim, a
 3 social worker, psychologist, or other professional, the victim advocate designated by
 4 the sheriff's office, or a representative from a not-for-profit victim service
 5 organization, including but not limited to rape crisis centers, domestic ~~violence~~ abuse
 6 advocacy groups, and alcohol abuse or substance abuse groups providing emotional
 7 support to the victim, shall be present, unless the victim requests the exclusion of
 8 such person from the interview, and, when appropriate, the parent or parents of the
 9 victim.

* * *

§1845. Additional rights for victims of sexual assaults; notification of rights

* * *

C.

* * *

(2) All law enforcement and judicial agencies shall provide a private setting
 for conducting all interviews of a victim of sexual assault. "Private setting" shall
 mean an enclosed room from which the occupants are not visible or otherwise
 identifiable and whose conversations cannot be heard from outside the room. Only
 those persons directly and immediately related to the interviewing of the victim,
 specifically the victim, a social worker, psychologist, or other professional, a victim
 advocate designated by the sheriff's office or a representative from a not-for-profit
 victim service organization including but not limited to rape crisis centers, sexual
 assault centers, domestic ~~violence~~ abuse advocacy groups, and alcohol abuse or
 substance abuse groups providing emotional support to the victim, shall be present
 unless the victim requests the exclusion of such person from the interview, and when
 appropriate, the parent or parents of the victim.

* * *

1 §1846. Communication between offender and victim prohibited; exceptions

2 A. A person who has been charged by bill of information or indictment with
3 any crime of violence as defined in R.S. 14:2 or any offense, that is a felony,
4 committed upon a family member, household member, or dating partner, ~~as those~~
5 ~~terms are defined by R.S. 46:2132~~, or any immediate family member of such person,
6 shall be prohibited from communicating, either by electronic communication, in
7 writing, or orally, with a victim of the offense, or any of his immediate family
8 members for which the person has been charged or for which disposition of the case
9 is pending.

10 * * *

11 C. A person who has been sentenced for a crime of violence as defined in
12 R.S. 14:2 or any offense, that is a felony, committed upon a family member,
13 household member, or dating partner, ~~as those terms are defined by R.S. 46:2132~~, or
14 any immediate family member of such person, shall be prohibited from
15 communicating, either by electronic communication, in writing, or orally, with a
16 victim of the offense, or any of his immediate family members, for which the person
17 has been sentenced unless the victim or his immediate family members initiate the
18 communication through the Department of Public Safety and Corrections, and it is
19 agreed that the victim and the offender participate in a formally defined restorative
20 justice program administered through the department.

21 * * *

22 §1861. Family justice centers

23 A.(1) A family justice center may be established in any judicial district to
24 provide support, services, and assistance to victims of the following types of
25 offenses:

26 (a) Domestic abuse as defined by ~~R.S. 46:2132(3)~~ and dating violence as
27 ~~defined in R.S. 46:2151(C)~~ in Civil Code Article 162.

1 * * *

2 §2131. Purposes

3 The purpose of this Part is to recognize and address the complex legal and
4 social problems created by domestic ~~violence~~ abuse. The legislature finds that
5 existing laws which regulate the dissolution of marriage do not adequately address
6 problems of protecting and assisting the victims of domestic abuse. The legislature
7 further finds that previous societal attitudes have been reflected in the policies and
8 practices of law enforcement agencies and prosecutors which have resulted in
9 different treatment of crimes occurring between family members, household
10 members, or dating partners and those occurring between strangers. It is the intent
11 of the legislature to provide a civil remedy for domestic ~~violence~~ abuse which will
12 afford the victim immediate and easily accessible protection. Furthermore, it is the
13 intent of the legislature that the official response of law enforcement agencies to
14 cases of domestic ~~violence~~ abuse shall stress the enforcement of laws to protect the
15 victim and shall communicate the attitude that ~~violent~~ abusive behavior is not
16 excused or tolerated.

17 §2132. Definitions

18 As used in this Part:

19 * * *

20 (3) ~~"Domestic abuse" includes but is not limited to physical or sexual abuse~~
21 ~~and any offense against the person, physical or non-physical, as defined in the~~
22 ~~Criminal Code of Louisiana, except negligent injury and defamation, committed by~~
23 ~~one family member, household member, or dating partner against another. "Domestic~~
24 ~~abuse" also includes abuse of adults as defined in R.S. 15:1503 when committed by~~
25 ~~an adult child or adult grandchild. "Dating partner" means any person who is or has~~
26 been in a social relationship of a romantic or intimate nature with the victim. The
27 nature of such a relationship shall be determined based on a consideration of the
28 following factors:

1 B. Venue lies:

2 * * *

3 (3) In the parish where the domestic abuse is alleged to have been
4 committed.

5 * * *

6 D. An adult may seek relief under this Part by filing a petition with the court
7 alleging domestic abuse by the defendant. Any parent, adult household member, or
8 district attorney may seek relief on behalf of any minor child or any person alleged
9 to be incompetent by filing a petition with the court alleging domestic abuse by the
10 defendant. A petitioner's right to relief under this Part shall not be affected by
11 leaving the residence or household to avoid further abuse.

12 §2134. Petition

13 A. A petition filed under the provisions of this Part shall contain the
14 following:

15 (1) The name of each petitioner and each person on whose behalf the petition
16 is filed, and the name, address, and parish of residence of each individual alleged to
17 have committed domestic abuse, if known; if the petition is being filed on behalf of
18 a child or person alleged to be incompetent, the relationship between that person and
19 the petitioner.

20 (2) The facts and circumstances concerning the alleged domestic abuse.

21 (3) The relationship between each petitioner and each individual alleged to
22 have committed domestic abuse.

23 * * *

1 C. If the petition requests a protective order for a spouse and alleges that the
2 other spouse has committed domestic abuse, the petition shall state whether a suit for
3 divorce is pending.

4 * * *

5 §2135. Temporary restraining order

6 A. Upon good cause shown in an ex parte proceeding, the court may enter
7 a temporary restraining order, without bond, as it deems necessary to protect from
8 domestic abuse the petitioner, any minor children, or any person alleged to be an
9 incompetent. ~~Any person who shows immediate and present danger of~~ A showing
10 of domestic abuse shall constitute good cause for purposes of this Subsection. The
11 court shall consider any and all past history of domestic abuse, or threats thereof, in
12 determining the existence of ~~an immediate and present danger of~~ abuse. There is no
13 requirement that the abuse itself be recent, immediate, or present. The order may
14 include but is not limited to the following:

15 * * *

16 B. If a temporary restraining order is granted without notice, the matter shall
17 be set within twenty-one days for a rule to show cause why the protective order
18 should not be issued, at which time the petitioner ~~must~~ shall prove the allegations of
19 domestic abuse by a preponderance of the evidence. The defendant shall be given
20 notice of the temporary restraining order and the hearing on the rule to show cause
21 by service of process as required by law within twenty-four hours of the issuance of
22 the order.

23 * * *

24 D. If no temporary restraining order has been granted, the court shall issue
25 a rule to show cause why the protective order should not be issued, and set the rule
26 for hearing on the earliest day that the business of the court will permit, but in any
27 case within ten days from the date of service of the petition, at which time the

1 petitioner ~~must~~ shall prove the allegations of domestic abuse by a preponderance of
2 the evidence. The defendant shall be given notice by service of process as required
3 by law.

4 * * *

5 §2136. Protective orders; content; modification; service

6 A. The court may grant any protective order or approve any consent
7 agreement to bring about a cessation of domestic abuse ~~as defined in R.S. 46:2132,~~
8 ~~or the threat or danger thereof, to a party, any minor children, or any person alleged~~
9 ~~to be incompetent~~, which relief may include but is not limited to:

10 * * *

11 §2136.1. Costs paid by abuser

12 A. All court costs, attorney fees, costs of enforcement and modification
13 proceedings, costs of appeal, evaluation fees, and expert witness fees incurred in
14 maintaining or defending any proceeding concerning domestic abuse assistance in
15 accordance with the provisions of this Part shall be paid by the perpetrator of the
16 domestic ~~violence~~ abuse, including all costs of medical and psychological care for
17 the ~~abused adult~~ victim of the domestic abuse, or for any of the children, necessitated
18 by the domestic ~~violence~~ abuse.

19 * * *

20 §2136.2. Louisiana Protective Order Registry

21 A. In order to provide a statewide registry for abuse prevention orders to
22 prevent domestic abuse, ~~dating violence~~, stalking, and sexual assault and to aid law
23 enforcement, prosecutors, and the courts in handling such matters, there shall be
24 created a Louisiana Protective Order Registry administered by the judicial
25 administrator's office, Louisiana Supreme Court. The judicial administrator's office
26 shall collect the data transmitted to it from the courts, law enforcement, and private

1 process servers of the state and enter it into the Louisiana Protective Order Registry
2 as expeditiously as possible.

3 B. The Louisiana Protective Order Registry encompasses temporary
4 restraining orders, protective orders, preliminary injunctions, permanent injunctions,
5 and court-approved consent agreements resulting from actions brought pursuant to
6 R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., R.S. 46:2181 et seq., R.S.
7 9:361 et seq., R.S. 9:372, Children's Code Article 1564 et seq., Code of Civil
8 Procedure Article 3607.1, or peace bonds pursuant to Code of Criminal Procedure
9 Article 30(B), or as part of the disposition, sentence, or bail condition of a criminal
10 matter pursuant to Code of Criminal Procedure ~~Articles 327.1, 335.1, 335.2, or~~
11 Article 871.1 as long as such order is issued for the purpose of preventing violent or
12 threatening acts or harassment against, contact or communication with, or physical
13 proximity to, another person to prevent domestic abuse, stalking, ~~dating violence~~, or
14 sexual assault.

15 * * *

16 §2136.3. Prohibition on the possession of firearms by a person against whom a
17 protective order is issued

18 A. Any person against whom the court has issued a permanent injunction or
19 a protective order pursuant to a court-approved consent agreement or pursuant to the
20 provisions of R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2136, ~~2151~~, or 2173, Children's
21 Code Article 1570, Code of Civil Procedure Article 3607.1, or Code of Criminal
22 Procedure Articles 30, 320, or 871.1 shall be prohibited from possessing a firearm
23 or carrying a concealed weapon for the duration of the injunction or protective order
24 if both of the following occur:

25 * * *

26 §2138. Assistance; clerk of court; domestic abuse advocate

27 * * *

1 C. For purposes of this Section, "domestic abuse advocate" means an
2 employee or representative of a community based shelter providing services to
3 victims of ~~family violence~~ or domestic abuse.

4 * * *

5 §2140. Law enforcement officers; duties

6 A. If a law enforcement officer has reason to believe that ~~a family or~~
7 ~~household member or dating partner has been abused~~ domestic abuse has occurred
8 and the abusing party is in violation of a temporary restraining order, a preliminary
9 or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq.,
10 R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., Children's Code
11 Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of
12 Criminal Procedure Articles 30, ~~327.1, 335.1, 335.2~~, and 871.1, the officer shall
13 immediately arrest the abusing party.

14 B. If a law enforcement officer has reason to believe that ~~a family or~~
15 ~~household member or dating partner has been abused~~ domestic abuse has occurred,
16 and the abusing party is not in violation of a temporary restraining order, a
17 preliminary or permanent injunction, or a protective order, the officer shall
18 immediately use all reasonable means to prevent further abuse, including:

19 * * *

20 (4) Notifying the abused person of his right to initiate criminal or civil
21 proceedings; the availability of the protective order, R.S. 46:2136; and the
22 availability of community assistance for domestic ~~violence~~ abuse victims.

23 C.(1) When a law enforcement officer receives conflicting accounts of
24 domestic abuse ~~or dating violence~~, the officer shall evaluate each account separately
25 to determine if one party was the predominant aggressor.

1 presence of the officer. An arrest pursuant to the provisions of this Subparagraph
2 shall be subject to the laws governing arrest, including the need for probable cause
3 as otherwise provided by law. The exceptions provided for in this Section shall
4 apply.

5 * * *

6 §2143. Use of electronic monitoring of ~~offenders~~ abusers; pilot program

7 A. When a court issues any peace bond, temporary restraining order,
8 protective order, preliminary injunction, permanent injunction or court-approved
9 consent agreements pursuant to R.S. 46:2131 et seq., R.S. 9:361 et seq., R.S. 9:372
10 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Article 3604,
11 or as part of the disposition, sentence, or bail condition of a criminal matter pursuant
12 to Code of Criminal Procedure ~~Articles 327.1 or Article~~ Article 871.1 for the purpose of
13 preventing acts of domestic ~~violence~~ abuse, the court may also order the ~~domestic~~
14 ~~violence~~ ~~offender~~ abuser to participate in an electronic monitoring program.
15 However, the use of electronic monitoring equipment shall be used only if the
16 domestic abuse victim has consented to its use.

17 B. The court shall specify the terms of the electronic monitoring program,
18 which shall include but is not limited to the following requirements:

19 (1) The device shall alert the domestic ~~violence~~ abuse victim and the
20 appropriate law enforcement agency when the ~~domestic violence offender~~ abuser is
21 within a certain distance of the protected person or protected premises, as ordered
22 by the court. The court issuing the order shall be notified of the violation of the
23 order by the local law enforcement agency within twenty-four hours.

24 (2) The device shall be worn at all times by the ~~domestic violence offender~~
25 abuser.

26 (3) Equipment shall be installed or placed in the home of the ~~offender~~ abuser
27 to monitor the compliance of the ~~offender~~ abuser.

Proposed law provides a consistent and comprehensive definition of "domestic abuse" through all areas of civil law which includes both physical manifestations of abuse and patterns of assaultive or coercive behaviors, including but not limited to physical, sexual, and psychological threats and attacks and financial control.

Present law (C.C. Art. 103) provides for the granting of a divorce upon proof of physical or sexual abuse of a spouse or child of the spouse.

Proposed law provides for the granting of a divorce upon proof of domestic abuse.

Present law (C.C. Art. 104) provides for the extinguishment of a cause of action for divorce when the parties reconcile. A Comment is provided to explain that a reconciliation in the domestic abuse context should be carefully considered because the necessary mutual intent to reconcile may not be accurate.

Present law (C.C. Art. 112) requires the court to consider the existence, effect, and duration of domestic abuse in the determination of spousal support.

Proposed law retains present law and updates terminology.

Present law (C.C. Art. 134) requires the court to consider certain factors in determining the best interest of the child before making custody and visitation determinations.

Proposed law conforms the factors to the civil definition of domestic abuse and elevates the importance of those factors without excluding any other factor. Proposed law also refers the court to the Post-Separation Domestic Abuse Relief Act.

Present law (C.C. Art. 136) provides for the awarding of visitation when a parent is not granted custody.

Proposed law changes a cross-reference.

Proposed law (C.C. Art. 162) defines "domestic abuse" to include a single act or a pattern of behavior, including physical abuse, coercion, control, punishment, intimidation, or exacting revenge upon, committed by one family member, current or former household member, or dating partner against another.

Present law (C.C. Arts. 2315.8 and 2362.1) provides liability for damages caused by domestic abuse and creates a separate obligation for the payment of attorney fees and costs incurred by a spouse who commits domestic abuse.

Proposed law retains present law, deletes an obsolete cross-reference, and updates terminology.

Present law (C.C.P. Arts. 891, 3603.1, 3604, 3607.1, 3610, and 3945) provides for the form of a petition and for the form, registry, and security for a temporary restraining order or preliminary injunction involving domestic violence.

Proposed law retains present law and updates cross-references and terminology.

Present law (Ch.C. Art. 652) provides for the confidentiality of certain identifying information regarding a victim of domestic abuse.

Proposed law retains present law and updates cross-references and terminology.

Present law (Ch.C. Arts. 1564-1573) provides, through a Domestic Abuse Assistance Act, a civil remedy in the juvenile courts for domestic abuse in homes where children reside. Present law provides for definitions, venue, form of the petition, temporary restraining orders and protective orders, costs, and law enforcement duties.

Proposed law provides a cross-reference to the Civil Code definition of "domestic abuse" and updates corresponding terminology.

Present law (C.E. Art. 412.5) provides for the admissibility of evidence of similar crimes, wrongs, or acts in civil cases.

Proposed law retains present law and updates cross-references and terminology.

Present law (C.Cr.P. Arts. 313, 320, 321, 893, 895, 899.2, 900, 1001, and 1002) provides for bail, suspension of sentence, probation, and the transfer of firearms in domestic violence cases.

Proposed law retains present law, provides a cross-reference to the Civil Code definition of "domestic abuse," and updates corresponding terminology and cross-references.

Present law (R.S. 9:314) permits a court to assess attorney fees and court costs against a person who commits domestic abuse.

Proposed law requires the court to assess attorney fees and court costs against a person who commits domestic abuse.

Present law (R.S. 9:345, 355.2, 358.2, 358.3, and 359.13) provides for the appointment of an attorney in child custody and visitation proceedings, the relocation of the residence of a child, parenting coordinators, and the Military Parent and Child Custody Protection Act.

Proposed law retains present law and updates cross-references and terminology.

Present law (R.S. 9:361-369) provides for the Post-Separation Family Violence Relief Act.

Proposed law renames the Act the "Post-Separation Domestic Abuse Relief Act," provides a cross-reference to the Civil Code definition of "domestic abuse" updates corresponding terminology and cross-references, and clarifies the presumption that a parent who has committed domestic abuse shall not be awarded joint or sole custody.

Present law (R.S. 9:372, 2603, 2800.9, 3261.1, and 4103) provides for injunctions, the Louisiana Uniform Electronic Transactions Act, actions against a person for the abuse of a minor, lease agreements, and the referral of cases for mediation.

Proposed law retains present law and updates cross-references and terminology.

Present law (R.S. 13:621.21, 621.22, 721, 1802, 1819, 1821, 1830, 1852, 1856, 1857, 1858, 1859, 2106, and 5304) provides for jurisdiction of courts, powers of commissioners, the Uniform Child Custody Jurisdiction and Enforcement Act, the Uniform International Child Abduction Prevention Act, the collection of a nonrefundable fee in certain cases in city court, and drug division probation programs.

Proposed law retains present law, provides a cross-reference to the Civil Code definition of "domestic abuse", and updates corresponding terminology and cross-references.

Present law (R.S. 14:79) provides for the violation of protective orders.

Proposed law retains present law and updates cross-references.

Present law (R.S. 15:257.1, 574.7, 574.9, and 587.8) provides an exception for material witness warrants for certain victims, violations of parole, and access to criminal history.

Proposed law retains present law and updates cross-references and terminology.

Present law (R.S. 17:7.2) establishes qualifications and requirements for teacher education programs.

Proposed law retains present law and updates terminology.

Present law (R.S. 22:1063 and 1078) prohibits insurance discrimination against certain persons including victims of domestic violence.

Proposed law retains present law, provides a cross-reference to the Civil Code definition of "domestic abuse", and updates corresponding terminology.

Present law (R.S. 33:9701) ensures access to emergency services for victims of domestic abuse.

Proposed law retains present law and provides a cross-reference to the Civil Code definition of "domestic abuse".

Present law (R.S. 37:2554) provides for the qualifications of short hand reporters and the use of electronic or audio recordings in hearings related to abuse.

Proposed law retains present law and updates cross-references.

Present law (R.S. 39:1619) provides for social services contracts.

Proposed law retains present law and updates terminology.

Present law (R.S. 40:506, 1379.3.2, 2405.8, and 2533) provides for housing authorities, concealed handgun permits, peace officer training requirements, and the rights of law enforcement officers while under investigation.

Proposed law retains present law, provides a cross-reference to the Civil Code definition of "domestic abuse", and updates corresponding terminology and additional cross-references.

Present law (R.S. 44:3) provides for the disclosure of public records.

Proposed law deletes definitions of "family member", "household member", and "dating partner" and updates cross-references.

Present law (R.S. 46:52.1, 236.5, 236.10, 1842, 1844, 1845, 1846, and 1861) provides for certain programs administered by the Department of Children and Family Services, rights of victims and witnesses of crime, and family justice centers.

Proposed law retains present law and updates corresponding terminology and cross-references.

Present law (R.S. 46:2131-2143) provides for the Domestic Abuse Assistance Act.

Proposed law defines "domestic abuse" to include a single act or a pattern of behavior, including physical abuse, coercion, control, punishment, intimidation, or exacting revenge upon, committed by one family member, current or former household member, or dating partner against another.

Proposed law also updates corresponding terminology and cross-references throughout the Act.

Present law (R.S. 9:341) provides restrictions on visitation whenever the court finds by a preponderance of the evidence that a parent has subjected any of his children or stepchildren to family violence.

Proposed law repeals present law but moves the provisions relative to supervised visitation when a parent has subjected his children to domestic abuse relative to R.S. 9:364 in the Post-Separation Domestic Abuse Relief Act.

Present law (R.S. 46:1844) cross-references existing definitions of "family member", "household member", and "dating partner".

Proposed law deletes present law.

Present law (R.S. 46:2121.1) defines "family or household members", "family violence", and "victim of family violence".

Proposed law deletes present law.

Present law (R.S. 46:2140) defines "dating violence" and "domestic abuse".

Proposed law deletes present law.

Present law (R.S. 46:2151) provides for the Protection From Dating Violence Act and defines "dating partner".

Proposed law repeals present law but includes dating partners within the definition of "domestic abuse" and in the Domestic Abuse Assistance Act.

(Amends C.C. Arts. 103(4) and (5), 112(B)(9), 134, 136(A), the heading of Title VI of Book I, and C.C. Arts. 2315.8(A) and 2362.1(B), C.C.P. Arts. 891(B), 3603.1(A) and (C)(1),

3604(C)(1), 3607.1, 3610, and 3945(G), Ch.C. Arts. 652(E)(2), 1564, 1565, 1566(C), 1567(A)(3) and (B), 1568(A)(1), (3), and (4) and (C), 1569(A)(intro. para.), (B), and (D), 1570(A)(intro. para.), 1570.1(A), and 1573(intro. para.) and (4), C.E. Art. 412.5(A), C.Cr.P. Arts. 313(A)(2), 320(G)(1) and (I)(1)(a), 321(C)(19), 893(A)(2), 895(M)(1), 899.2(D)(5) and (6), 900(A)(6)(d)(iii), the heading of Title XXXV, and C.Cr.P. Arts. 1001(1), (2), and (4) and 1002(A)(2)(a), R.S. 9:314, 345(B), 355.2(D)(2), 358.2, 358.3(B)(8), 359.13, the heading of Part IV of Chapter 1 of Code Title V of Code Book I of Title 9, and R.S. 9:361, 362(1), (3)(c), (4), (5), (6), and (7), 363, 364, 365, 366(A), 367, 369, 372(A) and (C), 2603(B)(4)(a), 2800.9(A), 3261.1(B)(2) and (C)(2) and 4103(B)(1), R.S. 13:621.21(B)(2) and (C)(2), 621.22(B)(3), 721(E)(2)(1), 1802(4), 1819(B)(1), 1821(A)(2), 1830(B)(3), 1852(4), 1856(4) and (5), 1857(A)(4), 1858(B), 1859(D), 2106(B) and 5304(B)(10) (intro. para.) and (b), R.S. 14:79(A)(1)(a) and (E), R.S. 15:257.1(C)(1)(c), 574.7(C)(2)(a)(x) and (4)(e) and (f), 574.9(H)(2)(c), 587.8(A) and (B)(3)(intro. para.), (a), (b), and (d) and (7), R.S. 17:7.2(A)(6), R.S. 22:1063(A)(1)(g) and 1078(A), R.S. 33:9701(C)(2), R.S. 37:2554(B)(2)(b), R.S. 39:1619(A)(3)(intro. para.), (a), (f), and (g), R.S. 40:506(D), 1379.3.2(A), 2405.8(E)(1)(intro. para.), (a), and (g) and (2) and (I)(3)(a)(i) and (b) and 2533(C)(1), R.S. 44:3(A)(6) and (J)(3), and R.S. 46:52.1(F)(3)(a)(v), 236.5(C)(1) and (3)(k), 236.10(C)(2)(d)(i), 1842(15)(d), 1844(C)(2), 1845(C)(2), 1846(A) and (C), 1861(A)(1)(a), 2131, 2132(3) and (4), 2133(B)(3) and (D), 2134(A)(1), (2), and (3) and (C), 2135(A)(intro. para.), (B), and (D), 2136(A)(intro. para.), 2136.1(A), 2136.2(A) and (B), 2136.3(A)(intro. para.), 2138(C), 2140(A), (B)(intro. para.) and (4), and (C)(1), (2)(intro. para.), (e), and (g), and (3)(b), and 2143(A), (B), and (C); Adds C.C. Art. 162; Repeals R.S. 9:341 and R.S. 46:1844(W)(5)(d), 2121.1, 2140(C)(4), and 2151)