

RÉSUMÉ DIGEST

ACT 394 (HB 55)

2021 Regular Session

Freeman

Prior law required that a petition requesting the issuance of an ex parte temporary restraining order pursuant to the Domestic Abuse Assistance Act contain an affidavit signed by each petitioner that the facts and circumstances contained in the petition were true and correct to the best knowledge, information, and belief of the petitioner.

New law provides that the petition shall contain a written affirmation, rather than an affidavit, signed and dated by the petitioner before a witness who shall sign and print his name. New law further explicitly provides the same for a complainant seeking protection from domestic abuse, dating violence, stalking, or sexual assault.

Existing law (R.S. 14:123) provides that perjury committed in a civil action shall be punished by a fine of not more than \$10,000 or imprisonment at hard labor for not more than five years, or both. New law retains existing law.

Prior law further provided that any false statement under oath contained in the affidavit accompanying a petition requesting an ex parte temporary restraining order pursuant to the Domestic Abuse Assistance Act constituted perjury and was punishable by a fine of not more than \$1,000 or by imprisonment with or without hard labor for not more than five years, or both.

New law repeals prior law and provides that the affirmation provided by new law is subject to perjury pursuant to existing law (R.S. 14:123).

Existing law provides that a temporary restraining order shall be granted without notice when:

- (1) It clearly appears from specific facts shown by a verified petition or by supporting affidavit that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition.
- (2) The applicant's attorney certifies to the court in writing the efforts which have been made to give the notice or the reasons supporting his claim that notice should not be required.

New law retains existing law and provides that a temporary restraining order shall also be granted when an affirmation as provided in new law shows the specific facts required by existing law.

Effective August 1, 2021.

(Amends C.C.P. Art. 3603(A), Ch.C. Art. 1568(D), and R.S. 46:2134(D); Adds C.C.P. Art 3603.1(C)(3))