

## RÉSUMÉ DIGEST

ACT 101 (HB 212)

2020 Regular Session

Marino

Existing law provides for the crimes of domestic abuse battery and battery of a dating partner and provides enhanced penalties under certain circumstances including when the victim of the offense is pregnant, when the offense involves strangulation or burning, or when the offender intentionally inflicts serious bodily injury.

New law retains existing law and provides the following specific penalties that are applied when the crime of domestic abuse battery or battery of a dating partner is committed under the following circumstances:

- (1) When the offense is committed with a dangerous weapon, in addition to any other penalties imposed, the offender shall be imprisoned at hard labor for not more than 10 years.
- (2) When the offense is committed with a dangerous weapon and when the offender intentionally inflicts serious bodily injury, in addition to any other penalties imposed, the offender shall be imprisoned at hard labor for not more than 15 years.

New law further adds offenses committed under the new law circumstances described above and domestic abuse battery and battery of a dating partner involving strangulation to the existing law list of crimes of violence.

Existing law provides that any felony crime of violence, as defined by present law, against a person committed by one family member or household member against another family member or household member shall be designated as an act of domestic abuse for consideration in any criminal or civil proceeding.

New law retains existing law and provides that such designation shall also apply to any felony crime of violence committed by one dating partner against the person of another dating partner.

For purposes of the crimes of domestic abuse battery and domestic abuse aggravated assault and for purposes of the existing law Domestic Abuse Assistance Act, which provides for certain protections to victims of domestic abuse, existing law defines "family member" as spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, and foster children.

New law retains the existing law definition of "family member" and expands it to include other ascendants and descendants and the other parent or foster parent of any child or foster child of the offender.

Existing law provides that when an accused is charged with a crime involving abusive behavior against a family member, household member, or dating partner, evidence of the accused's commission of another crime, wrong, or act involving assaultive behavior against a family member, household member, or dating partner may be admissible and may be considered for its bearing on any matter to which it is relevant unless its probative value is substantially outweighed by other factors including the danger of unfair prejudice, confusion of issues, or misleading the jury.

For these purposes:

- (1) Existing law defines "family member" as spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, and foster children.
- (2) Prior law defined "household member" as including any person who has reached the age of majority and who is presently or formerly living in the same residence with the offender as a spouse, whether married or not.

New law retains the existing law definition of "family member" and expands it to include other ascendants and descendants and the other parent or foster parent of any child or foster child of the offender.

New law amends the prior law definition of "household member" to include persons who have not reached the age of majority and, with regard to any person presently or formerly living in the same residence with the offender, to include any person who is involved or has been involved in a sexual or intimate relationship with the offender.

Effective Aug. 1, 2020.

(Amends R.S. 14:2(B)(48) and (49), 34.9(J), (K), (L), and (M), 35.3(B)(4) and (N), and 37.7(B)(1), R.S. 46:2132(4), and C.E. Art. 412.4(D)(3) and (4); Adds R.S. 14:34.9(N), (O), and (P) and 35.3(O) and (P))