Regular Session, 2011

HOUSE BILL NO. 401

BY REPRESENTATIVES HUTTER, DOERGE, ROSALIND JONES, AND PATRICIA SMITH AND SENATOR BROOME

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/ABUSE: Increases penalties for domestic abuse battery

AN ACT

To amend and reenact R.S. 14:35.3(C), (D)(introductory paragraph) and (1), and (K), relative to domestic abuse battery; to increase penalties for first and second offenses of domestic abuse battery; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:35.3(C), (D)(introductory paragraph) and (1), and (K) are hereby amended and reenacted to read as follows:

§35.3. Domestic abuse battery

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C. On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than ~~ten~~ thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occur:

(1) The offender is placed on probation with a minimum condition that he serve ~~two~~ four days in jail and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the ~~sentence; or~~ sentence.

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(2) The offender is placed on probation with a minimum condition that he perform ~~four~~ eight, eight-hour days of court-approved community service activities and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

D. On a conviction of a second offense, notwithstanding any other provision of law to the contrary, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and shall be imprisoned for not less than ~~thirty~~ sixty days nor more than six months. At least ~~forty-eight~~ ninety-six hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occur:

(1) The offender is placed on probation with a minimum condition that he serve ~~fifteen~~ thirty days in jail and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the ~~sentence; or~~ sentence.

* * *

K. If the victim of domestic abuse battery is pregnant and the offender knows that the victim is pregnant at the time of the commission of the offense, the offender, who is sentenced under the provisions of this Section, shall be required to serve a minimum of ~~thirty~~ forty-five days without benefit of suspension of sentence for a first conviction, upon a second conviction shall serve a minimum of ~~six months~~ one year imprisonment without benefit of suspension of sentence, upon a third conviction shall serve a minimum of two years with or without hard labor without benefit of probation, parole, or suspension of sentence, and upon a fourth and subsequent offense shall serve a minimum of four years at hard labor without benefit of probation, parole, or suspension of sentence.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Hutter HB No. 401

Abstract: Increases penalties for domestic abuse battery.

Present law provides that any person who commits the crime of domestic abuse battery shall be punished as follows:

(1) On a first conviction, the offender shall be fined not less than $300 nor more than $1,000 and shall be imprisoned for not less than 10 days nor more than six months. Imposition or execution of sentence shall not be suspended unless the offender participates in a court-approved domestic abuse prevention program and either of the following occur:

(a) The offender is placed on probation with a minimum condition that he serve two days in jail.

(b) The offender is placed on probation with a minimum condition that he perform four eight-hour days of court-approved community service activities.

(2) On a conviction of a second offense, the offender shall be fined not less than $750 nor more than $1,000 and shall be imprisoned for not less than 30 days nor more than six months. At least 48 hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless the offender participates in a court-approved domestic abuse prevention program and either of the following occur:

(a) The offender is placed on probation with a minimum condition that he serve 15 days in jail.

(b) The offender is placed on probation with a minimum condition that he perform 30 eight-hour days of court-approved community service activities.

(3) If the victim is pregnant and the offender knows that the victim is pregnant at the time of the commission of the offense, the offender, who is sentenced under the provisions of present law, shall be required to serve a minimum of 30 days without benefit of suspension of sentence for a first conviction, upon a second conviction shall serve a minimum of six months imprisonment without benefit of suspension of sentence, upon a third conviction shall serve a minimum of two years with or without hard labor without benefit of probation, parole, or suspension of sentence, and upon a fourth and subsequent offense shall serve a minimum of four years at hard labor without benefit of probation, parole, or suspension of sentence.

Proposed law amends present law penalties as follows:

(1) On a first conviction, proposed law increases the minimum term of imprisonment to not less than 30 days with at least 48 hours of the sentence being served without benefit of parole, probation, or suspension of sentence. Imposition of the remainder of the sentence shall not be suspended unless the offender participates in a court-approved domestic abuse prevention program and either serves four days in jail or participates in eight, eight-hour days of community service.

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(2) On a conviction of a second offense, proposed law increases the minimum term of imprisonment to not less than 60 days with at least 96 hours of the sentence being served without benefit of parole, probation, or suspension of sentence. Imposition of the remainder of the sentence shall not be suspended unless the offender participates in a court-approved domestic abuse prevention program and either serves 30 days in jail or participates in 30 eight-hour days of community service.

(3) If the victim of domestic abuse battery is pregnant, proposed law increases the minimum term of imprisonment to 45 days for a first conviction and one year for a second conviction.

Proposed law retains all other present law provisions.

(Amends R.S. 14:35.3(C), (D)(intro. para.) and (1), and (K))

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