

Regular Session, 2012

HOUSE BILL NO. 215

BY REPRESENTATIVE SMITH

CRIMINAL/VICTIMS: Provides relative to victim and offender communications

1 AN ACT

2 To amend and reenact R.S. 46:1846, relative to communication between offender and
3 victim; to amend provisions relative to prohibited communication between an
4 offender and a victim; to amend procedures by which an offender and victim may
5 communicate; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 46:1846 is hereby amended and reenacted to read as follows:

8 §1846. Communication between offender and victim prohibited; exceptions

9 A. A person who has been charged by bill of information or indictment with
10 any crime of violence as defined in R.S. 14:2, or any immediate family member of
11 such person, shall be prohibited from communicating, either by electronic
12 communication, in writing, or orally, with a victim of the offense, or any of his
13 immediate family members for which the person ~~charged~~ has been ~~convicted~~ charged
14 or for which disposition of the case is pending.

15 B. The provisions of Subsection A of this Section shall apply to
16 communication between the offender or his immediate family member and the
17 victim, or any of his immediate family members, unless ~~Paragraph (1) of this~~
18 ~~Subsection is satisfied and either Paragraph (2) or (3)~~ the provisions of Paragraphs
19 (1) and (2) of this Subsection is are satisfied.

1 (1) The victim consents to the communication through the local prosecuting
2 agency.

3 ~~(2) The victim and offender have consented to participation in a restorative~~
4 ~~justice program administered through the Department of Public Safety and~~
5 ~~Corrections.~~

6 ~~(3)~~ The communication is made through the counsel of the offender or the
7 offender himself if he is representing himself at trial.

8 C. A person who has been sentenced for a crime of violence as defined in
9 R.S. 14:2, or any immediate family member of such person, shall be prohibited from
10 communicating, either by electronic communication, in writing, or orally, with a
11 victim of the offense, or any of his immediate family members, for which the person
12 has been sentenced unless the victim or his immediate family members initiate the
13 communication through the Department of Public Safety and Corrections, and it is
14 agreed that the victim and the offender participate in a formally defined restorative
15 justice program administered through the department.

16 ~~C.D.~~ For purposes of this Section, "immediate family member" means the
17 spouse, mother, father, aunt, uncle, sibling, or child of the offender, whether related
18 by blood, marriage, or adoption.

19 ~~D.E.~~ Whoever violates the provisions of this Section shall be fined not more
20 than five hundred dollars, imprisoned for not more than six months, or both.

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)]

Smith

HB No. 215

Abstract: Provides relative to circumstances in which an offender and a victim may communicate.

Present law provides that a person who has been charged with a crime of violence shall be prohibited from communicating with a victim of the offense for which the person has been convicted or for which the disposition of the case is pending.

Proposed law amends present law to provide that the offender charged with a crime of violence shall be prohibited from communicating with a victim of the offense for which he is charged.

Present law provides that a victim and offender who has been charged with a crime of violence may only communicate if the victim consents to the communication through the local prosecuting agency and either of the following are satisfied:

- (1) The victim and the offender have consented to participating in a restorative justice program administered through DPS&C.
- (2) The communication is made through the counsel of the offender or the offender himself if he is representing himself at trial.

Proposed law amends present law and provides that a victim and offender who has been charged with a crime of violence may only communicate if the victim consents to the communication through the local prosecuting agency, and the communication is made through the counsel of the offender or the offender if he is representing himself at trial.

Proposed law provides that a person who has been sentenced for a crime of violence as shall be prohibited from communicating with a victim of the offense unless the victim initiates the communication through DPS&C, and it is agreed that the victim and the offender participate in a formally defined restorative justice program administered through the department.

(Amends R.S. 46:1846)