Regular Session, 2014

HOUSE BILL NO. 753

BY REPRESENTATIVE MORENO

FAMILY VIOLENCE: Provides relative to the possession, forfeiture, and seizure of firearms as it relates to persons convicted of domestic abuse battery or subject to a protective order

| 1 | AN ACT |
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| 2 | To amend and reenact R.S. 14:95.1(A) and (C) and to enact R.S. 46:2136.3 and 2140(A)(5), |
| 3 | relative to the possession of firearms in domestic abuse situations; to prohibit the |
| 4 | possession of firearms or carrying of a concealed weapon by persons convicted of |
| 5 | domestic abuse battery; to prohibit the possession of firearms by persons who are the |
| 6 | subject of protective orders or permanent injunctions involving domestic violence; |
| 7 | to require that law enforcement officers seize firearms in certain circumstances; to |
| 8 | provide for definitions; and to provide for related matters. |
| 9 | Be it enacted by the Legislature of Louisiana: |
| 10 | Section 1. R.S. 14:95.1(A) and (C) are hereby amended and reenacted to read as |
| 11 | follows: |
| 12 | §95.1. Possession of firearm or carrying concealed weapon by a person convicted |
| 13 | of certain felonies offenses |
| 14 | A.(1) It is unlawful for any person who has been convicted of a crime of |
| 15 | violence as defined in R.S. 14:2(B) which is a felony or simple burglary, burglary |
| 16 | of a pharmacy, burglary of an inhabited dwelling, unauthorized entry of an inhabited |
| 17 | dwelling, felony illegal use of weapons or dangerous instrumentalities, manufacture |
| 18 | or possession of a delayed action incendiary device, manufacture or possession of |
| 19 | a bomb, or possession of a firearm while in the possession of or during the sale or |

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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| 1 | distribution of a controlled dangerous substance, or any violation of the Uniform |
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| 2 | Controlled Dangerous Substances Law which is a felony, or any crime which is |
| 3 | defined as a sex offense in R.S. 15:541, or any crime defined as an attempt to |
| 4 | commit one of the above-enumerated offenses under the laws of this state, or who |
| 5 | has been convicted under the laws of any other state or of the United States or of any |
| 6 | foreign government or country of a crime which, if committed in this state, would |
| 7 | be one of the above-enumerated crimes, to possess a firearm or carry a concealed |
| 8 | weapon. |
| 9 | (2) It shall be unlawful for any person who is convicted of a violation of R.S. |
| 10 | 14:35.3 on or after August 1, 2014, regardless of whether the offense is punishable |
| 11 | with or without hard labor, to possess a firearm or to carry a concealed weapon. |
| 12 | * * * |
| 13 | C. The provisions of this Section prohibiting the possession of firearms and |
| 14 | carrying concealed weapons by persons who have been convicted of certain felonies, |
| 15 | or a misdemeanor offense of domestic abuse battery shall not apply to any person |
| 16 | who has not been convicted of any felony or a misdemeanor offense of domestic |
| 17 | abuse battery for a period of ten years from the date of completion of sentence, |
| 18 | probation, parole, or suspension of sentence. |
| 19 | * * * |
| 20 | Section 2. R.S. 46:2136.3 and 2140(A)(5) are hereby enacted to read as follows: |
| 21 | §2136.3. Prohibition on the possession of firearms by a person against whom a |
| 22 | protective order is issued |
| 23 | A. Any person against whom the court has issued a permanent injunction or |
| 24 | a protective order pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372, R.S. |
| 25 | 46:2136 or 2151, Children's Code Article 1570, Code of Civil Procedure Article |
| 26 | 3607.1, or Code of Criminal Procedure Articles 30, 327.1, 335.2, or 871.1 shall be |
| 27 | prohibited from possessing a firearm for the duration of the injunction or protective |
| 28 | order. |

| 1 | B. For the provisions of this Section, "firearm" means any pistol, revolver, |
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| 2 | rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle |
| 3 | which is designed to fire or is capable of firing fixed cartridge ammunition or from |
| 4 | which a shot or projectile is discharged by an explosive. |
| 5 | * * * |
| 6 | §2140. Law enforcement officers; duties |
| 7 | A. Whenever a law enforcement officer has reason to believe that a family |
| 8 | or household member or dating partner has been abused, the officer shall |
| 9 | immediately use all reasonable means to prevent further abuse, including: |
| 10 | * * * |
| 11 | (5) Seizing any firearm possessed by the abusing party in the presence of the |
| 12 | officer if the officer believes that there could be impending danger through the use |
| 13 | of the firearm or if the abusing party is the subject of a protective order or permanent |
| 14 | injunction and prohibited from possessing a firearm pursuant to the provisions of |
| 15 | R.S. 40:2136.3. Any weapons seized pursuant to this Paragraph shall be returned to |
| 16 | the owner upon expiration of the protective order or permanent injunction. |
| 17 | * * * |

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)]

Moreno

HB No. 753

Abstract: Limits possession of firearms or carrying of concealed weapons in certain domestic abuse situations.

<u>Present law</u> prohibits the possession of a firearm or carrying of a concealed weapon by persons convicted of certain felony offenses.

<u>Proposed law</u> retains <u>present law</u> and adds convictions of misdemeanor domestic abuse battery.

<u>Present law</u> provides for protection from family violence and provides for services for victims of abuse and the duties of law enforcement officers regarding abuse situations.

<u>Proposed law</u> retains <u>present law</u> and requires law enforcement officers to seize firearms at the scene of an act of domestic violence if they believe there could be impending danger.

<u>Proposed law</u> provides that any person against whom the court has issued a permanent injunction or a protective order relative to domestic abuse shall be prohibited from possessing a firearm for the duration of the injunction or protective order.

(Amends R.S. 14:95.1(A) and (C); Adds R.S. 46:2136.3 and 2140(A)(5))

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