

Regular Session, 2014

HOUSE BILL NO. 753

BY REPRESENTATIVES MORENO AND BROSSETT

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

1 AN ACT

2 To enact R.S. 14:95.10 and R.S. 46:2136.3, relative to the possession of firearms in
3 domestic abuse situations; to prohibit the possession of firearms or carrying of a
4 concealed weapon by persons convicted of domestic abuse battery; to prohibit the
5 possession of firearms by persons who are the subject of protective orders or
6 permanent injunctions involving domestic violence; to provide for penalties; to
7 provide for definitions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:95.10 is hereby enacted to read as follows:

10 §95.10. Possession of a firearm or carrying of a concealed weapon by a person
11 convicted of domestic abuse battery

12 A. It is unlawful for any person who has been convicted of the crime of
13 domestic abuse battery to possess a firearm or carry a concealed weapon.

14 B. Whoever is found guilty of violating the provisions of this Section shall
15 be imprisoned with or without hard labor for not less than one year nor more than
16 five years and shall be fined not less than five hundred dollars nor more than one
17 thousand dollars

18 C. A person shall not be considered to be convicted of R.S. 14:35.3 for the
19 purposes of this Section unless the person was represented by counsel and convicted
20 by a jury, or the person knowingly and intelligently waived his right to counsel or the

1 right to a jury trial. A person shall not be considered convicted of R.S. 14:35.3 for
2 the purposes of this Section if the conviction has been expunged, set aside, or is an
3 offense for which the person has been pardoned or had civil rights restored unless the
4 pardon, expungement, or restoration of civil rights expressly provides that the person
5 may not ship, possess, or receive firearms.

6 D. For the provisions of this Section, "firearm" means any pistol, revolver,
7 rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle
8 which is designed to fire or is capable of firing fixed cartridge ammunition or from
9 which a shot or projectile is discharged by an explosive.

10 E. The provisions of this Section prohibiting the possession of firearms and
11 carrying concealed weapons by persons who have been convicted of domestic abuse
12 battery shall not apply to any person who has not been convicted of domestic abuse
13 battery for a period of ten years from the date of completion of sentence, probation,
14 parole, or suspension of sentence.

15 Section 2. R.S. 46:2136.3 is hereby enacted to read as follows:

16 §2136.3. Prohibition on the possession of firearms by a person against whom a
17 protective order is issued

18 A. Any person against whom the court has issued a permanent injunction or
19 a protective order pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372, R.S.
20 46:2136 or 2151, Children's Code Article 1570, Code of Civil Procedure Article
21 3607.1, or Code of Criminal Procedure Articles 30, 327.1, 335.2, or 871.1 shall be
22 prohibited from possessing a firearm for the duration of the injunction or protective
23 order if both of the following occur:

24 (1) The permanent injunction or protective order includes a finding that the
25 person subject to the permanent injunction or protective order represents a credible
26 threat to the physical safety of a family member or household member.

27 (2) The permanent injunction or protective order informs the person subject
28 to the permanent injunction or protective order that the person is prohibited from

1 possessing a firearm pursuant to the provisions of 18 U.S.C. 922(g)(8) and R.S.
2 46:2136.3.

3 B. For the provisions of this Section, "firearm" means any pistol, revolver,
4 rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle
5 which is designed to fire or is capable of firing fixed cartridge ammunition or from
6 which a shot or projectile is discharged by an explosive.

7 * *

8 Section 3. The Judicial Administrator's Office of the Louisiana Supreme Court is
9 hereby directed to amend the Uniform Abuse Prevention Order to include a reference to R.S.
10 46:2136.3, enacted by the provisions of this Act, to those portions of the order which notify
11 and warn the person against whom the order is issued of the federal prohibitions relative to
12 firearms and ammunition.

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.

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

Proposed law 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 if both of the following occur:

- (1) The permanent injunction or protective order includes a finding that the person subject to the permanent injunction or protective order represents a credible threat to the physical safety of a family member or household member.
- (2) The permanent injunction or protective order informs the person subject to the permanent injunction or protective order that the person is prohibited from possessing a firearm pursuant to both state and federal law.

Proposed law creates the crime of possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery.

Proposed law provides penalties of imprisonment with or without hard labor for not less than one year nor more than five years and a fine of not less than \$500 nor more than \$1,000.

Proposed law provides that if 10 years has passed since the completion of the sentence for domestic abuse battery or from probation, parole, or suspension of sentence, it shall not be a violation of proposed law.

Proposed law directs the Judicial Administrator's Office of the Louisiana Supreme Court to amend the Uniform Abuse Prevention Order to notify and warn the person against whom the order is issued of the state and federal prohibitions relative to firearms and ammunition.

(Adds R.S. 14:95.10 and R.S. 46:2136.3)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Deleted proposed law firearm seizure provisions.
2. Added criminal prohibition for possessing a firearm or carrying a concealed weapon by a person convicted of domestic abuse battery.
3. Added requirements for domestic abuse battery protective order and permanent injunction with respect to the prohibition of possessing a firearm.
4. Deleted proposed law amendment to the crime of possession of a firearm or carrying a concealed weapon by a person convicted of certain felony offenses.
5. Required the Judicial Administrator's Office of the Louisiana Supreme Court to amend the Uniform Abuse Prevention Order to include a reference to state law to those portions of the order which notify and warn the person against whom the order is issued of the federal prohibitions relative to firearms and ammunition.