

ACT No. 318

Regular Session, 2014

HOUSE BILL NO. 1142

BY REPRESENTATIVES BURRELL, BURFORD, HENRY BURNS, AND MORENO
AND SENATORS DORSEY-COLOMB, MILLS, AND MORRELL

1 AN ACT

2 To amend and reenact R.S. 14:79(A)(1)(a) and (E), R.S. 46:2136.2(B), and Code of
3 Criminal Procedure Article 335.1(A)(1) and to enact Code of Criminal Procedure
4 Article 330.3, relative to bail; to provide relative to bail restrictions for offenses
5 against a family or household member or dating partner; to provide for the issuance
6 of a Uniform Abuse Prevention Order; to provide relative to the possession of
7 firearms by persons subject to the order; to provide for the inclusion of such orders
8 in the Louisiana Protective Order Registry; to provide relative to contradictory bail
9 hearings for persons charged with certain felony offenses; and to provide for related
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Code of Criminal Procedure Article 335.1(A)(1) is hereby amended and
13 reenacted and Code of Criminal Procedure Article 330.3 is hereby enacted to read as
14 follows:

15 Art. 330.3. Bail hearing for felony offenses against a family or household member
16 or dating partner; detention

17 A. This Section may be cited as and referred to as "Gwen's Law".

18 B. A contradictory bail hearing, as provided for in this Article, shall be held
19 prior to setting bail for a person in custody who is charged with a felony offense
20 against the defendant's family or household member, as defined in R.S. 46:2132(4),
21 or against the defendant's dating partner, as defined in R.S. 46:2151.

1 Art. 335.1. Offenses against a family or household member or dating partner;
2 provisions for forfeiture, arrest, modification

3 A.(1)(a) In determining conditions of release of a defendant who is alleged
4 to have committed an offense against the defendant's family or household member,
5 as defined in R.S. 46:2132(4), or against the defendant's dating partner, as defined
6 in R.S. 46:2151, or who is alleged to have committed the offense of domestic abuse
7 battery under the provisions of R.S. 14:35.3, or who is alleged to have committed the
8 offense of stalking under the provisions of R.S. 14:40.2, the court shall consider
9 whether the defendant poses a threat or danger to the victim. If the court determines
10 that the defendant poses such a threat or danger, it shall require as a condition of bail
11 that the defendant refrain from going to the residence or household of the victim, the
12 victim's school, and the victim's place of employment or otherwise contacting the
13 victim in any manner whatsoever, and shall refrain from having any further contact
14 with the victim.

15 (b) If, as part of a bail restriction, an order is issued pursuant to the
16 provisions of this Paragraph, the judge shall cause to have prepared a Uniform Abuse
17 Prevention Order, as provided in R.S. 46:2136.2, shall sign such order, and shall
18 immediately forward it to the clerk of court for filing, on the next business day after
19 the order is issued. The clerk of the issuing court shall transmit the Uniform Abuse
20 Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court,
21 for entry into the Louisiana Protective Order Registry, as provided in R.S.
22 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously
23 as possible, but no later than the end of the next business day after the order is filed
24 with the clerk of court. The clerk of the issuing court shall also send a copy of the
25 Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any
26 modification thereof, to the chief law enforcement officer of the parish where the
27 person or persons protected by the order reside. A copy of the Uniform Abuse
28 Prevention Order shall be retained on file in the office of the chief law enforcement
29 officer until otherwise directed by the court.

1 (c) If, as part of a bail restriction, an order is issued pursuant to the
 2 provisions of this Paragraph, the court shall also order that the defendant be
 3 prohibited from possessing a firearm for the duration of the Uniform Abuse
 4 Prevention Order. For the purposes of this Subparagraph, "firearm" means any
 5 pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon,
 6 or assault rifle that is designed to fire or is capable of firing fixed cartridge
 7 ammunition or from which a shot or projectile is discharged by an explosive.

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9 Section 2. R.S.14:79(A)(1)(a) and (E) are hereby amended and reenacted to read as
10 follows:

11 §79. Violation of protective orders

12 A.(1)(a) Violation of protective orders is the willful disobedience of a
 13 preliminary or permanent injunction or protective order issued pursuant to R.S. 9:361
 14 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564
 15 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal
 16 Procedure Articles 327.1, 335.1, 335.2, and 871.1 after a contradictory court hearing,
 17 or the willful disobedience of a temporary restraining order or any ex parte protective
 18 order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S.
 19 46:2151, criminal stay-away orders as provided for in Code of Criminal Procedure
 20 Articles 327.1, ~~and 335.1,~~ 335.2, Children's Code Article 1564 et seq., or Code of
 21 Civil Procedure Articles 3604 and 3607.1, if the defendant has been given notice of
 22 the temporary restraining order or ex parte protective order by service of process as
 23 required by law.

* * *

25 E. Law enforcement officers shall use every reasonable means, including but
 26 not limited to immediate arrest of the violator, to enforce a preliminary or permanent
 27 injunction or protective order obtained pursuant to R.S. 9:361, R.S. 9:372, R.S.
 28 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564 et seq., Code of Civil
 29 Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 327.1,
 30 335.1, 335.2, and 871.1 after a contradictory court hearing, or to enforce a temporary

1 restraining order or ex parte protective order issued pursuant to R.S. 9:361, R.S.
 2 9:372, R.S. 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564 et seq., Code
 3 of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles
 4 327.1, ~~and 335.1~~, and 335.2 if the defendant has been given notice of the temporary
 5 restraining order or ex parte protective order by service of process as required by
 6 law.

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Section 3. R.S. 46:2136.2(B) is hereby amended and reenacted to read as follows:

§2136.2. Louisiana Protective Order Registry

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B. The Louisiana Protective Order Registry encompasses temporary
 restraining orders, protective orders, preliminary injunctions, permanent injunctions,
 and court-approved consent agreements resulting from actions brought pursuant to
 R.S. 46:2131 et seq., R.S. 46:2151, R.S. 9:361 et seq., R.S. 9:372, Children's Code
 Article 1564 et seq., Code of Civil Procedure Article 3607.1, or peace bonds
 pursuant to Code of Criminal Procedure Article 30(B), or as part of the disposition,
 sentence, or bail condition of a criminal matter pursuant to Code of Criminal
 Procedure ~~Article~~ Articles 327.1, 335.1, 335.2, or ~~Article~~ 871.1 as long as such order
 is issued for the purpose of preventing violent or threatening acts or harassment
 against, contact or communication with, or physical proximity to, another person to
 prevent domestic abuse or dating violence.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____