

2017 Regular Session

HOUSE BILL NO. 223

BY REPRESENTATIVE MORENO AND SENATOR CLAITOR

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

DOMESTIC ABUSE: Expands the application of domestic abuse battery, domestic abuse aggravated assault, and other provisions of law regarding domestic abuse to dating partners

1 AN ACT

2 To amend and reenact R.S.14:35.3(A), (B)(4), (5), (6), and (7), (G)(1), and (J) and 37.7(A)

3 and (B), R.S. 15:590(8), R.S. 46:2136.3(A)(introductory paragraph) and (1), Code

4 of Evidence Article 412.4(A) and (D)(2) and (3), and Code of Criminal Procedure

5 Article 387(A)(introductory paragraph) and to enact R.S. 14:35.3(B)(8) and Code of

6 Evidence Article 412.4(D)(4), relative to domestic abuse; to provide relative to acts

7 of abuse involving dating partners; to expand the application of the crimes of

8 domestic abuse battery and domestic abuse aggravated assault to dating partners; to

9 add offenses of abuse involving dating partners to the types of offenses for which

10 certain information is obtained upon arrest and conviction; to provide relative to the

11 possession of firearms by persons subject to a permanent injunction or protective

12 order for acts of abuse involving dating partners; to provide relative to admissibility

13 of evidence of similar crimes, wrongs, or acts in cases of abuse involving dating

14 partners; to provide relative to the information required when instituting the

15 prosecution for an offense involving abuse against a dating partner; to provide

16 definitions; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S.14:35.3(A), (B)(4), (5), (6), and (7), (G)(1), and (J) and 37.7(A) and  
3 (B) are hereby amended and reenacted and R.S. 14:35.3(B)(8) is hereby enacted to read as  
4 follows:

5 §35.3. Domestic abuse battery

6 A. Domestic abuse battery is the intentional use of force or violence  
7 committed by one household member, ~~or family member,~~ or dating partner upon the  
8 person of another household member, ~~or family member,~~ or dating partner.

9 B. For purposes of this Section:

10 \* \* \*

11 (4) "Dating partner" has the same meaning as defined in R.S. 46:2151.

12 ~~(4)(5)~~ "Family member" means spouses, former spouses, parents, children,  
13 stepparents, stepchildren, foster parents, and foster children.

14 ~~(5)(6)~~ "Household member" means any person of the opposite sex presently  
15 or formerly living in the same residence with the offender as a spouse, whether  
16 married or not, or any child presently or formerly living in the same residence with  
17 the offender, or any child of the offender regardless of where the child resides.

18 ~~(6)(7)~~ "Serious bodily injury" means bodily injury that involves  
19 unconsciousness, extreme physical pain, or protracted and obvious disfigurement,  
20 or protracted loss or impairment of the function of a bodily member, organ, or  
21 mental faculty, or a substantial risk of death.

22 ~~(7)(8)~~ "Strangulation" means intentionally impeding the normal breathing  
23 or circulation of the blood by applying pressure on the throat or neck or by blocking  
24 the nose or mouth of the victim.

25 \* \* \*

26 G.(1) For purposes of determining whether an offender has a prior  
27 conviction for violation of this Section, a conviction under this Section, or a  
28 conviction under the laws of any state or an ordinance of a municipality, town, or  
29 similar political subdivision of another state which prohibits the intentional use of

1 force or violence committed by one household member, ~~or family member, or dating~~  
2 partner upon another household member, ~~or family member, or dating partner~~ shall  
3 constitute a prior conviction.

4 \* \* \*

5 J. Any crime of violence, as defined in R.S. 14:2(B), against a person  
6 committed by one household member, family member, or dating partner against  
7 another household member, family member, or dating partner shall be designated as  
8 an act of domestic abuse for consideration in any civil or criminal proceeding.

9 \* \* \*

10 §37.7. Domestic abuse aggravated assault

11 A. Domestic abuse aggravated assault is an assault with a dangerous weapon  
12 committed by one household member, ~~or family member, or dating partner~~ upon  
13 another household member, ~~or family member, or dating partner~~.

14 B. For purposes of this Section:

15 (1) "Dating partner" has the same meaning as defined in R.S. 46:2151.

16 ~~(1)~~(2) "Family member" means spouses, former spouses, parents, children,  
17 stepparents, stepchildren, foster parents, and foster children.

18 ~~(2)~~(3) "Household member" means any person of the opposite sex presently  
19 or formerly living in the same residence with the offender as a spouse, whether  
20 married or not, or any child presently or formerly living in the same residence with  
21 the offender, or any child of the offender regardless of where the child resides.

22 \* \* \*

23 Section 2. R.S. 15:590(8) is hereby amended and reenacted to read as follows:

24 §590. Obtaining and filing fingerprint and identification data

25 The bureau shall obtain and file the name, fingerprints, description,  
26 photographs, and any other pertinent identifying data as the deputy secretary deems  
27 necessary, of any person who meets any of the following:

28 \* \* \*



1 of the offense, evidence of the accused's commission of another crime, wrong, or act  
2 involving assaultive behavior against a family member, ~~or household member,~~ or  
3 dating partner or acts which constitute cruelty involving a victim who was under the  
4 age of seventeen at the time of the offense, may be admissible and may be  
5 considered for its bearing on any matter to which it is relevant, subject to the  
6 balancing test provided in Article 403.

7 \* \* \*

8 D. For purposes of this Article:

9 \* \* \*

10 (2) "Dating partner" has the same meaning as defined in R.S. 46:2151.

11 ~~(2)(3)~~ (3) "Family member" means spouses, former spouses, parents and  
12 children, stepparents, stepchildren, foster parents, and foster children.

13 ~~(3)(4)~~ (4) "Household member" means any person having reached the age of  
14 majority presently or formerly living in the same residence with the offender as a  
15 spouse, whether married or not, or any child presently or formerly living in the same  
16 residence with the offender, or any child of the offender regardless of where the child  
17 resides.

18 Section 5. Code of Criminal Procedure Article 387(A)(introductory paragraph) is  
19 hereby amended and reenacted to read as follows:

20 Art. 387. Additional information required when prosecuting certain offenses

21 A. When instituting the prosecution of an offense involving a violation of  
22 any state law or local ordinance that prohibits the use of force or a deadly weapon  
23 against any family member, household member, or dating partner as those terms are  
24 defined by R.S. 14:35.3 ~~or any household member as defined by R.S. 14:35.3,~~ the  
25 district attorney, or city prosecutor for criminal prosecutions in city court, shall  
26 include the following information in the indictment, information, or affidavit:

27 \* \* \*

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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)]

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HB 223 Engrossed

2017 Regular Session

Moreno

**Abstract:** Expands the application of domestic abuse battery, domestic abuse aggravated assault, and other provisions of law regarding domestic abuse to dating partners.

Present law provides for the following:

- (1) The crimes of domestic abuse and domestic abuse aggravated assault for cases involving the use of force or violence or assault with a dangerous weapon by one household member or family member against another household member or family member.
- (2) Requires the La. Bureau of Criminal Identification and Information to obtain and file the name, fingerprints, description, photographs, and other pertinent identifying data of any person who has been arrested, or has been issued a summons and subsequently convicted, for a violation of any state law or ordinance that prohibits the use of force or a deadly weapon against any family member or household member.
- (3) Prohibits any person against whom the court has issued a permanent injunction or a protective order relative to domestic abuse from possessing a firearm for the duration of the injunction or protective order if the injunction or order includes a finding that the person represents a credible threat to the physical safety of a family member or household member and the injunction or order informs the person that he is prohibited from possessing a firearm pursuant to both state and federal law.
- (4) For crimes in which the accused is charged with a crime involving abusive behavior against a family member or household member, provides for the admissibility of evidence of the accused's commission of another crime, wrong, or act involving assaultive behavior against a family member or household member unless the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time.
- (5) Requires the district attorney to include certain information in the indictment, information, or affidavit when instituting the prosecution for an offense involving a violation of any state law or local ordinance that prohibits the use of force or a deadly weapon against a family member or household member.
- (6) For all of these purposes, present law provides for the following definitions:
  - (a) "Household member" means any person of the opposite sex presently or formerly living in the same residence with the offender as a spouse, whether married or not, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.
  - (b) "Family member" means spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, and foster children.

- (7) Defines "dating partner", for purposes of the present law Protection from Dating Violence Act (R.S. 46:2151 et seq.), as any person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Proposed law expands the applicability of these provisions of present law to cases of abuse involving "dating partners" as that term is defined by present law.

(Amends R.S.14:35.3(A), (B)(4), (5), (6), and (7), (G)(1), and (J) and 37.7(A) and (B), R.S. 15:590(8), R.S. 46:2136.3(A)(intro. para.) and (1), C.E. Art. 412.4(A) and (D)(2) and (3), and C.Cr.P. Art. 387(A)(intro. para.); Adds R.S. 14:35.3(B)(8) and C.E. Art. 412.4(D)(4))