

2015 Regular Session

HOUSE BILL NO. 73

BY REPRESENTATIVE NORTON

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

DOMESTIC ABUSE: Provides relative to protection from abuse or violence by a family member, household member, or dating partner

1 AN ACT

2 To amend and reenact R.S. 46:2132(3) and 2151(C) and Code of Criminal Procedure
3 Articles 335.1(A)(1)(a) and 335.2(A), relative to protection from abuse by a family
4 member, household member, or dating partner; to provide relative to the issuance of
5 protective orders as a condition of bail for stalking and other offenses against a
6 family or household member or dating partner; to provide relative to the Protection
7 from Family Violence Act and the Protection from Dating Violence Act; to expand
8 the definitions of "domestic abuse" and "dating violence"; to expand the types of
9 abuse for which certain protections and assistance are available to a victim; and to
10 provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Code of Criminal Procedure Articles 335.1(A)(1)(a) and 335.2(A) are
13 hereby amended and reenacted to read as follows:

14 Art. 335.1. Offenses against a family or household member or dating partner;
15 provisions for forfeiture, arrest, and modification

16 A.(1)(a) In determining conditions of release of a defendant who is alleged
17 to have committed an offense against the defendant's family or household member,
18 as defined in R.S. 46:2132(4), or against the defendant's dating partner, as defined
19 in R.S. 46:2151, or who is alleged to have committed the offense of domestic abuse
20 battery under the provisions of R.S. 14:35.3, or who is alleged to have committed the

1 offense of stalking under the provisions of R.S. 14:40.2, the court shall consider
 2 whether the defendant poses a threat or danger to the victim. ~~If~~ At the request of the
 3 victim or if the court determines that the defendant poses ~~such~~ a threat or danger to
 4 the victim, it shall require as a condition of bail that the defendant refrain from going
 5 to the residence or household of the victim, the victim's school, and the victim's place
 6 of employment or otherwise contacting the victim in any manner whatsoever, and
 7 shall refrain from having any further contact with the victim.

8 * * *

9 Art. 335.2. Stalking; conditions of release

10 A. In determining conditions of release of a defendant who is alleged to have
 11 committed the crime of stalking pursuant to the provisions of R.S. 14:40.2, the court
 12 shall consider whether the defendant poses a threat or danger to the victim. ~~If~~ At the
 13 request of the victim or if the court determines that the defendant poses ~~such~~ a threat
 14 or danger to the victim, it shall require as a condition of bail that the defendant
 15 refrain from going to the residence or household of the victim, the victim's school,
 16 and the victim's place of employment, or otherwise contacting the victim in any
 17 manner whatsoever, and shall refrain from having any further contact with the
 18 victim.

19 * * *

20 Section 2. R.S. 46:2132(3) and 2151(C) are hereby amended and reenacted to read
 21 as follows:

22 §2132. Definitions

23 As used in this Part:

24 * * *

25 (3)(a) "Domestic abuse" includes but is not limited to ~~physical or sexual~~
 26 ~~abuse and any offense against the person as defined in the Criminal Code of~~
 27 ~~Louisiana, except negligent injury and defamation, committed~~ the commission of any
 28 of the following, or the threat to commit any of the following, by one family or
 29 household member against another.;

Acts defined as "domestic abuse" or "dating violence" pursuant to the provisions of present law include physical abuse, sexual abuse, or any offense against the person as defined by the Criminal Code of La., except negligent injury and defamation, when committed by one family or household member against another or by one dating partner against the other.

Proposed law retains present law, and expands the types of acts that are considered "domestic abuse" or "dating violence" to include the threat to commit any of these acts.

Pursuant to these present law Acts, a person seeking protection from "domestic abuse" or "dating violence":

- (1) May file a petition for a protective order or a temporary restraining order.
- (2) Have all court costs, attorneys fees, costs of enforcement, and modifications proceedings, costs of appeals, evaluation fees, and expert witness fees incurred in maintaining or defending any proceeding concerning domestic abuse assistance or dating violence assistance paid by the perpetrator.

Present law (R.S. 46:2136.2) further provides that all orders issued pursuant to the provisions of these Acts shall be transmitted to the Judicial Administrator's Office of the La. Supreme Court for entry into the La. Protective Order Registry.

Present law (R.S. 46:2136.3) prohibits any person against whom the court has issued a permanent injunction or protective order pursuant to the provisions of these Acts or pursuant to other provisions of present law, including an order issued as a condition of release on bail for the crime of stalking or for an offense against a dating partner or a family or household member, from possessing a firearm for the duration of the order when certain circumstances exist.

Present law (C.Cr.P. Arts. 335.1 and 335.2) provides that in determining the conditions of release of a defendant who is alleged to have committed an offense against the defendant's family or household member or dating partner, or who is alleged to have committed the offense of domestic abuse battery or stalking, the court shall consider whether the defendant poses a threat or a danger to the victim. If the court makes this determination, present law requires the court to order, as a condition of bail, that the defendant refrain from going to the victim's residence, school, and place of employment or otherwise contacting the victim in any manner. Any such order shall be included in the La. Protective Order Registry, pursuant to present law.

Proposed law retains present law and provides that the court shall also make such order if requested by the victim regardless of whether the court has determined that the defendant poses a threat or danger to the victim.

(Amends R.S. 46:2132(3) and 2151(C) and C.Cr.P. Arts. 335.1(A)(1)(a) and 335.2(A))