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**HOUSE FLOOR AMENDMENTS**

2017 Regular Session

Amendments proposed by Representative Moreno to Engrossed House Bill No. 223 by Representative Moreno

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete the remainder of the line, delete line 3 in its entirety,  
3 and insert "R.S. 14:95.10(A), (C), and (E), R.S. 15:590(8), R.S. 46:2136.3(A)(introductory  
4 paragraph) and (1) and 2151(B), Code"

5 AMENDMENT NO. 2

6 On page 1, line 4, after "412.4(A) and" and before the comma "," change "(D)(2) and (3)"  
7 to "(D)"

8 AMENDMENT NO. 3

9 On page 1, line 5, after "enact" delete the remainder of the line and insert "R.S. 14:2(B)(47),  
10 34.9, and 34.9.1"

11 AMENDMENT NO. 4

12 On page 1, at the beginning of line 6, delete "Evidence Article 412.4(D)(4)"

13 AMENDMENT NO. 5

14 On page 1, line 7, after "partners;" delete the remainder of the line, delete line 8 in its  
15 entirety, and insert the following:

16 "to provide relative to the definition of "dating partner"; to create the crimes  
17 of battery of a dating partner and aggravated assault upon a dating partner;  
18 to prohibit the possession of a firearm by persons convicted of certain  
19 offenses of battery of a dating partner; to"

20 AMENDMENT NO. 6

21 On page 2, line 2, after "Section 1." delete the remainder of the line, delete line 3 in its  
22 entirety, and insert the following:

23 "R.S. 14:95.10(A), (C), and (E) are hereby amended and reenacted and R.S.  
24 14:2(B)(47), 34.9, and 34.9.1 are hereby enacted to read as"

25 AMENDMENT NO. 7

26 On page 2, delete lines 5 through 29 in their entirety

27 AMENDMENT NO. 8

28 On page 3, delete lines 1 through 22 in their entirety and insert the following:

29 "§2. Definitions

\* \* \*

B. In this Code, "crime of violence" means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon. The following enumerated offenses and attempts to commit any of them are included as "crimes of violence":

\* \* \*

(47) Aggravated assault upon a dating partner.

\* \* \*

§34.9. Battery of a dating partner

A. Battery of a dating partner is the intentional use of force or violence committed by one dating partner upon the person of another dating partner.

B. For purposes of this Section:

(1) "Burning" means an injury to flesh or skin caused by heat, electricity, friction, radiation, or any other chemical or thermal reaction.

(2) "Court-monitored domestic abuse intervention program" means a program, comprised of a minimum of twenty-six in-person sessions occurring over a minimum of twenty-six weeks, that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:

(a) Experience in working directly with perpetrators and victims of domestic abuse.

(b) Experience in facilitating batterer intervention groups.

(c) Training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity to victims.

(d) "Dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

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

(5) "Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of the victim.

C. On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

(1) The offender is placed on probation with a minimum condition that he serve four days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not possess a firearm throughout the entirety of the sentence.

(2) The offender is placed on probation with a minimum condition that he perform eight, eight-hour days of court-approved community service activities and complete a court-monitored domestic abuse intervention

1 program, and the offender shall not possess a firearm throughout the entirety  
 2 of the sentence.

3 D. On a conviction of a second offense, notwithstanding any other  
 4 provision of law to the contrary, regardless of whether the second offense  
 5 occurred before or after the first conviction, the offender shall be fined not  
 6 less than seven hundred fifty dollars nor more than one thousand dollars and  
 7 shall be imprisoned with or without hard labor for not less than sixty days nor  
 8 more than one year. At least fourteen days of the sentence imposed shall be  
 9 served without benefit of parole, probation, or suspension of sentence, and  
 10 the offender shall be required to complete a court-monitored domestic abuse  
 11 intervention program. Imposition or execution of the remainder of the  
 12 sentence shall not be suspended unless either of the following occurs:

13 (1) The offender is placed on probation with a minimum condition  
 14 that he serve thirty days in jail and complete a court-monitored domestic  
 15 abuse intervention program, and the offender shall not possess a firearm  
 16 throughout the entirety of the sentence.

17 (2) The offender is placed on probation with a minimum condition  
 18 that he perform thirty eight-hour days of court-approved community service  
 19 activities and complete a court-monitored domestic abuse intervention  
 20 program, and the offender shall not possess a firearm throughout the entirety  
 21 of the sentence.

22 E. On a conviction of a third offense, notwithstanding any other  
 23 provision of law to the contrary and regardless of whether the offense  
 24 occurred before or after an earlier conviction, the offender shall be  
 25 imprisoned with or without hard labor for not less than one year nor more  
 26 than five years and shall be fined two thousand dollars. The first year of the  
 27 sentence of imprisonment shall be imposed without benefit of probation,  
 28 parole, or suspension of sentence.

29 F.(1) Except as otherwise provided in Paragraph (2) of this  
 30 Subsection, on a conviction of a fourth or subsequent offense,  
 31 notwithstanding any other provision of law to the contrary and regardless of  
 32 whether the fourth offense occurred before or after an earlier conviction, the  
 33 offender shall be imprisoned with hard labor for not less than ten years nor  
 34 more than thirty years and shall be fined five thousand dollars. The first  
 35 three years of the sentence of imprisonment shall be imposed without benefit  
 36 of probation, parole, or suspension of sentence.

37 (2) If the offender has previously received the benefit of suspension  
 38 of sentence, probation, or parole as a fourth or subsequent offender, no part  
 39 of the sentence may be imposed with benefit of suspension of sentence,  
 40 probation, or parole, and no portion of the sentence shall be imposed  
 41 concurrently with the remaining balance of any sentence to be served for a  
 42 prior conviction for any offense.

43 G.(1) For purposes of determining whether an offender has a prior  
 44 conviction for violation of this Section, a conviction under this Section, or a  
 45 conviction under the laws of any state or an ordinance of a municipality,  
 46 town, or similar political subdivision of another state which prohibits the  
 47 intentional use of force or violence committed by one household member,  
 48 family member, or dating partner upon another household member, family  
 49 member, or dating partner shall constitute a prior conviction.

50 (2) For purposes of this Section, a prior conviction shall not include  
 51 a conviction for an offense under this Section if the date of completion of  
 52 sentence, probation, parole, or suspension of sentence is more than ten years  
 53 prior to the commission of the crime with which the offender is charged, and  
 54 such conviction shall not be considered in the assessment of penalties  
 55 hereunder. However, periods of time during which the offender was  
 56 incarcerated in a penal institution in this or any other state shall be excluded  
 57 in computing the ten-year period.

58 H. An offender ordered to complete a court-monitored domestic  
 59 abuse intervention program required by the provisions of this Section shall

1 pay the cost incurred in participation in the program. Failure to make such  
2 payment shall subject the offender to revocation of probation, unless the  
3 court determines that the offender is unable to pay.

4 I. This Subsection shall be cited as the "Dating Partner Abuse Child  
5 Endangerment Law". When the state proves, in addition to the elements of  
6 the crime as set forth in Subsection A of this Section, that a minor child  
7 thirteen years of age or younger was present at the residence or any other  
8 scene at the time of the commission of the offense, of the sentence imposed  
9 by the court, the execution of the minimum mandatory sentence provided by  
10 Subsection C or D of this Section, as appropriate, shall not be suspended, the  
11 minimum mandatory sentence imposed under Subsection E of this Section  
12 shall be two years without suspension of sentence, and the minimum  
13 mandatory sentence imposed under Subsection F of this Section shall be four  
14 years without suspension of sentence.

15 J. If the victim of the offense is pregnant and the offender knows that  
16 the victim is pregnant at the time of the commission of the offense, the  
17 offender, who is sentenced under the provisions of this Section, shall be  
18 required to serve a minimum of forty-five days without benefit of suspension  
19 of sentence for a first conviction, upon a second conviction shall serve a  
20 minimum of one year imprisonment without benefit of suspension of  
21 sentence, upon a third conviction shall serve a minimum of two years with  
22 or without hard labor without benefit of probation, parole, or suspension of  
23 sentence, and upon a fourth and subsequent offense shall serve a minimum  
24 of four years at hard labor without benefit of probation, parole, or suspension  
25 of sentence.

26 K. Notwithstanding any other provision of law to the contrary, if the  
27 offense involves strangulation, the offender shall be imprisoned at hard labor  
28 for not more than three years.

29 L. Notwithstanding any other provision of law to the contrary, if the  
30 offense is committed by burning that results in serious bodily injury, the  
31 offense shall be classified as a crime of violence, and the offender shall be  
32 imprisoned at hard labor for not less than five nor more than fifty years  
33 without benefit of probation, parole, or suspension of sentence.

34 §34.9.1. Aggravated assault upon a dating partner

35 A. Aggravated assault upon a dating partner is an assault with a  
36 dangerous weapon committed by one dating partner upon another dating  
37 partner.

38 B. For purposes of this Section, "dating partner" means any person  
39 who is involved or has been involved in a sexual or intimate relationship with  
40 the offender characterized by the expectation of affectionate involvement  
41 independent of financial considerations, regardless of whether the person  
42 presently lives or formerly lived in the same residence with the offender.  
43 "Dating partner" shall not include a casual relationship or ordinary  
44 association between persons in a business or social context.

45 C. Whoever commits the crime of aggravated assault upon a dating  
46 partner shall be imprisoned at hard labor for not less than one year nor more  
47 than five years and fined not more than five thousand dollars.

48 D. This Subsection shall be cited as the "Aggravated Assault Upon  
49 a Dating Partner Child Endangerment Law". When the state proves, in  
50 addition to the elements of the crime as set forth in Subsection A of this  
51 Section, that a minor child thirteen years of age or younger was present at the  
52 residence or any other scene at the time of the commission of the offense, the  
53 mandatory minimum sentence imposed by the court shall be two years  
54 imprisonment at hard labor without benefit of parole, probation, or  
55 suspension of sentence.

56 \* \* \*

57 §95.10. Possession of a firearm or carrying of a concealed weapon by a  
58 person convicted of domestic abuse battery and certain offenses of  
59 battery of a dating partner

1 A. It is unlawful for any person who has been convicted of ~~the crime~~  
2 ~~of domestic abuse battery, R.S. 14:35.3;~~ any of the following offenses to  
3 possess a firearm or carry a concealed weapon;

4 (1) Domestic abuse battery (R.S. 14:35.3).

5 (2) A second or subsequent offense of battery of a dating partner  
6 (R.S. 14:34.9).

7 (3) Battery of a dating partner when the offense involves  
8 strangulation (R.S. 14:34.9(K)).

9 (4) Battery of a dating partner when the offense involves burning  
10 (R.S. 14:34.9(L)).

11 \* \* \*

12 C. A person shall not be considered to have been convicted of  
13 domestic abuse battery or battery of a dating partner for purposes of this  
14 Section unless the person was represented by counsel in the case, or  
15 knowingly and intelligently waived the right to counsel in the case; and in the  
16 case of a prosecution for an offense described in this Section for which a  
17 person was entitled to a jury trial in the jurisdiction in which the case was  
18 tried, either the case was tried by a jury, or the person knowingly and  
19 intelligently waived the right to have the case tried by a jury, by guilty plea  
20 or otherwise. A person shall not be considered convicted of R.S. 14:35.3 or  
21 34.9 for the purposes of this Section if the conviction has been expunged, set  
22 aside, or is an offense for which the person has been pardoned or had civil  
23 rights restored unless the pardon, expungement, or restoration of civil rights  
24 expressly provides that the person may not ship, possess, or receive firearms.

25 \* \* \*

26 E. The provisions of this Section prohibiting the possession of  
27 firearms and carrying concealed weapons by persons who have been  
28 convicted of ~~domestic abuse battery~~ the offenses set forth in Subsection A of  
29 this Section shall not apply to any person who has not been convicted of  
30 ~~domestic abuse battery~~ any of the offenses set forth in Subsection A of this  
31 Section for a period of ten years from the date of completion of sentence,  
32 probation, parole, or suspension of sentence."

33 AMENDMENT NO. 9

34 On page 4, line 3, after "family member" delete the remainder of the line and insert "or  
35 household member"

36 AMENDMENT NO. 10

37 On page 4, at the beginning of line 4, delete "dating partner"

38 AMENDMENT NO. 11

39 On page 4, line 5, before the period "." insert "or that prohibits the use of force or violence  
40 against a dating partner as defined by R.S. 14:34.9"

41 AMENDMENT NO. 12

42 On page 4, line 6, after "and (1)" and before "hereby" delete "is" and insert "and 2151(B)  
43 are"

44 AMENDMENT NO. 13

45 On page 4, between lines 21 and 22, insert the following:

46 "§2151. Dating violence

47 \* \* \*

1 B. For purposes of this Section, "dating partner" means any person  
2 who is involved or has been involved in a ~~social~~ sexual or intimate  
3 ~~relationship of a romantic or intimate nature~~ with the offender characterized  
4 by the expectation of affectionate involvement independent of financial  
5 considerations, regardless of whether the person presently lives or formerly  
6 lived in the same residence with the offender. "Dating partner" shall not  
7 include a casual relationship or ordinary association between persons in a  
8 business or social context. ~~victim and where the existence of such a~~  
9 ~~relationship shall be determined based on a consideration of the following~~  
10 ~~factors:~~

- 11 (1) ~~The length of the relationship.~~
- 12 (2) ~~The type of relationship.~~
- 13 (3) ~~The frequency of interaction between the persons involved in the~~  
14 ~~relationship.~~

15 \* \* \*

16 AMENDMENT NO. 14

17 On page 4, line 22, after "412.4(A) and" delete the remainder of the line, delete line 23 in  
18 its entirety, and insert "(D) are hereby amended and reenacted to read"

19 AMENDMENT NO. 15

20 On page 5, delete lines 9 and 10 in their entirety and insert the following:

21 "(1) "Abusive behavior" means any behavior of the offender  
22 involving the use or threatened use of force against the person or property of  
23 a family member, ~~or~~ household member, or dating partner of the alleged  
24 offender.

25 (2) "Dating partner" means any person who is involved or has been  
26 involved in a sexual or intimate relationship with the offender characterized  
27 by the expectation of affectionate involvement independent of financial  
28 considerations, regardless of whether the person presently lives or formerly  
29 lived in the same residence with the offender. "Dating partner" shall not  
30 include a casual relationship or ordinary association between persons in a  
31 business or social context."

32 AMENDMENT NO. 16

33 On page 5, line 23, after "family member" delete the remainder of the line and insert "or  
34 household member as those terms are"

35 AMENDMENT NO. 17

36 On page 5, line 24, after "R.S. 14:35.3" and before the comma "," insert "or that prohibits  
37 the use of force or violence against a dating partner as defined by R.S. 14:34.9"