

Regular Session, 1997

SENATE BILL NO. 1425

BY SENATORS DARDENNE, COX, GUIDRY BAGNERIS, BAJOIE, BARHAM, BEAN, BRANCH, CAIN, CAMPBELL, CASANOVA, DEAN, DYESS, ELLINGTON, EWING, FIELDS, GREENE, HEITMEIER, HOLLIS, IRONS, JOHNSON, JONES, LAMBERT, LANDRY, LENTINI, MALONE, ROBICHAUX, ROMERO, SCHEDLER, SHORT, SMITH, THEUNISSEN AND ULLO

DOMESTIC VIOLENCE. Provides relative to domestic violence.

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AN ACT

To amend and reenact Children's Code Arts. 618, 1565(2), 1566, 1567(A)(1), 1568, 1570, and Code of Civil Procedure Art. 891, R.S. 9:362(4), R.S. 13:4243(B), R.S. 14:79(A) and R.S. 46:2121.1(1), 2123(2) and (3), 2124(A), 2124.1(A)(3), 2132(4), 2133(B), 2134, 2135(B), 2136, 2137(A), and 2138; to enact Children's Code Arts. 617(G), 627(C), 1569(G) and 1570.1, Code of Civil Procedure Art. 3607.1, and Code of Criminal Procedure Arts. 327.1, 871.1, R.S. 9:376, R.S. 13:4243(D) and R.S. 46:2135(G), 2136.1, and 2136.2, relative to domestic violence; to create a statewide registry of civil and criminal abuse prevention orders and provide for its administration; to provide relative to temporary restraining orders and protective orders; to expand the scope of protection for those covered; to provide that clerks of court transmit orders to the Louisiana Protective Order Registry; to provide restrictions on filing of reciprocal protective orders; to provide that violent abusers pay costs of domestic abuse cases; to provide that the

1 address and parish of a residence of domestic abuse a petitioner may
 2 remain confidential to the court; to provide that protective orders issued
 3 as bail restrictions and as part of a sentence be forwarded to the
 4 Louisiana Protective Order Registry; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Children’s Code Arts. 618, 1565(2), 1566, 1567(A)(1),
 7 1568, and 1570 are hereby amended and reenacted and Children's Code Arts.
 8 617(G), 627(C), 1569(G) and 1570.1 are hereby enacted to read as follows:

9 Art. 617. Temporary restraining order

10 * * *

11 **Ch.C. Art. 617(G) is all proposed new law.**

12 G. If a temporary restraining order is issued or extended, the
 13 clerk of the issuing court shall transmit that information to the
 14 Louisiana Protective Order Registry, R.S. 46:2136.2(A), on the
 15 Louisiana Abuse Prevention Order, R.S. 46:2136.2(C), by facsimile
 16 transmission or by mail on the date the order is issued, or by direct
 17 electronic input where available.

18 Art. 618. Protective orders; content; modification; service

19 A. The court may grant any protective order or approve any
 20 consent agreement to bring about a cessation of abuse of a party, any
 21 minor children, or any person alleged to be incompetent, which relief
 22 may include but is not limited to:

23 (1) Granting the relief enumerated in Article 617.

24 (2) When there is a duty to support a party, any minor children,
 25 or any person alleged to be incompetent living in the residence or
 26 household, ordering payment of temporary support or provision of
 27 suitable housing for them.

1 (3) Awarding temporary custody of or establishing temporary
2 visitation rights and conditions with regard to any minor children or
3 person alleged to be incompetent.

4 (4) Ordering counseling or professional medical treatment for
5 either the defendant or the abused person, or both.

6 **B. A protective order is consistent with this Part if the court**
7 **has jurisdiction over the parties and subject matter; and (1) the**
8 **parties enter into a consent agreement; or (2) reasonable notice and**
9 **opportunity to be heard is given to the person against whom the**
10 **order is sought sufficient to protect that person's right to due**
11 **process.**

12 **C. Any protective order issued within this state or outside**
13 **this state that is consistent with Subsection (B) shall be accorded full**
14 **faith and credit by the courts of this state and enforced as if it were**
15 **the order of the enforcing court.**

16 **D. Mutual protective orders are not entitled to full faith and**
17 **credit unless cross or counter petitions have been filed and the court**
18 **has made specific findings that each party was entitled to such**
19 **order. A protective order issued on behalf of a party who**
20 **petitioned, filed a complaint, or otherwise filed a written pleading**
21 **for protection will be entitled to full faith and credit.**

22 **E. B.** On the motion of any party, the court, after notice to the
23 other parties and a hearing, may modify a prior order to exclude any
24 item included in the prior order or to include any item that could have
25 been included in the prior order.

26 **E. C.** A protective order made under this Article shall be served
27 on the person to whom the order applies in open court at the close of

1 the hearing, or in the same manner as a writ of injunction. The clerk of
 2 the issuing court shall send a copy of the order or any modification
 3 thereof to the chief law enforcement official of the parish where the
 4 person or persons protected by the order reside. A copy of the
 5 protective order shall be retained on file in the office of the chief law
 6 enforcement officer as provided herein until otherwise directed by the
 7 court.

8 G. D. Any final protective order or approved consent agreement
 9 shall be for a fixed period of time, not to exceed six months, and may
 10 be extended by the court, after a contradictory hearing, in its discretion.
 11 Such protective order or extension thereof shall be subject to a
 12 devolutive appeal only.

13 **H. If a protective order is issued or modified, or a consent**
 14 **agreement is agreed to or modified, the clerk of the issuing court**
 15 **shall transmit that information to the Louisiana Protective Order**
 16 **Registry, R.S. 46:2136.2(A), on the Louisiana Abuse Prevention**
 17 **Order, R.S. 46:2136.2(C), by facsimile transmission or by mail on**
 18 **the date the order is issued, or by direct electronic input where**
 19 **available.**

20 * * *

21 Art. 627. Continued custody order

22 * * *

23 **Ch.C. Art. 627(C) is all proposed new law.**

24 C. If a protective order is issued or modified, the clerk of the
 25 issuing court shall transmit that information to the Louisiana Protective
 26 Order Registry, R.S. 46:2136.2(A), on the Louisiana Abuse Prevention
 27 Order, R.S. 46:2136.2(C), by facsimile transmission or by mail on the

1 date the order is issued, or by direct electronic input where available.

2 * * *

3 Art. 1565. Definitions

4 As used in this Chapter:

5 * * *

6 (2) "Family or household member" means spouses, former
7 spouses, parents and children, stepparents, stepchildren, foster parents,
8 foster children, and any person presently or formerly living in the
9 same residence with the defendant as a spouse whether married or not;
10 ~~if a child or children also live in the residence~~, who are seeking
11 protection under this Chapter.

12 * * *

13 Art. 1566. Assistance of clerk of court

14 The clerk of court shall make forms available for making
15 application for protective orders under this Chapter, provide clerical
16 assistance to the petitioner when necessary, advise indigent applicants
17 of the availability of filing in forma pauperis, provide the necessary
18 forms, and provide the services of a notary, where available, for
19 completion of the affidavit required in Article 1568. The forms shall
20 be prepared by the ~~district attorney~~ Louisiana Office of the Judicial
21 Administrator.

22 Art. 1567. Venue; standing

23 A. Venue lies in either:

24 (1) The parish in which the ~~marital~~ household domicile is
25 located.

26 * * *

27 Art. 1568. Petition

1 A. A petition filed under the provisions of this Chapter shall
2 contain the following:

3 (1) The name, address, and ~~parish of residence~~ of each
4 petitioner and each person on whose behalf the petition is filed and ~~that~~
5 **the name, address, and parish of residence** of each individual alleged
6 to have committed abuse, if known.

7 (2) If the petition is being filed on behalf of a child or person
8 alleged to be incompetent, the relationship between that person and the
9 petitioner.

10 (3) The facts and circumstances concerning the alleged abuse.

11 (4) The relationship between each petitioner and each
12 individual alleged to have committed abuse.

13 (5) A request for one or more protective orders or a temporary
14 restraining order.

15 **B. The address and parish of residence of each petitioner**
16 **and each person on whose behalf the petition is filed, may remain**
17 **confidential with the court.**

18 **C. B.** If the petition requests a protective order for a spouse and
19 alleges that the other spouse has committed abuse, the petition shall
20 state whether a suit for divorce is pending.

21 **D. E.** If the petition requests the issuance of an ex parte
22 temporary restraining order, the petition shall contain an affidavit
23 signed by each petitioner that the facts and circumstances contained in
24 the petition are true and correct to the best knowledge, information, and
25 belief of the petitioner. Any false statement under oath contained in the
26 affidavit shall constitute perjury and shall be punishable by a fine of
27 not more than one thousand dollars or by imprisonment with or without

1 hard labor for not more than five years, or both.

2 ~~E. D.~~ If a suit for divorce is pending, any application for a
 3 protective order shall be filed in that proceeding and shall be heard
 4 within the delays provided by this Chapter. Any decree issued in a
 5 divorce proceeding filed subsequent to the filing of a petition or an
 6 order issued pursuant to this Chapter may, in the discretion of the court
 7 hearing the divorce proceeding, supersede in whole or in part the orders
 8 issued pursuant to this Chapter. Such subsequent decree shall be
 9 forwarded by the rendering court to the court having jurisdiction of the
 10 petition for a protective order and shall be made a part of the record
 11 thereof. The findings and rulings made in connection with such
 12 protective orders shall not be res judicata in any subsequent
 13 proceeding.

14 Art. 1569. Temporary restraining order

15 * * *

16 **Ch.C. Art. 1569(G) is all proposed new law.**

17 G. If a temporary restraining order is issued or extended, the
 18 clerk of the issuing court shall transmit that information to the
 19 Louisiana Protective Order Registry, R.S. 46:2136.2(A), on the
 20 Louisiana Abuse Prevention Order, R.S. 46:2136.2(C), by facsimile
 21 transmission or by mail on the date the order is issued, or by direct
 22 electronic input where available.

23 Art. 1570. Protective orders; content; modification; service

24 A. The court may grant any protective order or approve any
 25 consent agreement to bring about a cessation of abuse of a party, any
 26 children, or any person alleged to be incompetent, which relief may
 27 include but is not limited to:

1 (1) Granting the relief enumerated in Article 1569.

2 (2) When there is a duty to support a party, any minor children,
3 or any person alleged to be incompetent living in the residence or
4 household, ordering payment of temporary support or provision of
5 suitable housing for them.

6 (3) Awarding temporary custody of or establishing temporary
7 visitation rights and conditions with regard to any children or person
8 alleged to be incompetent.

9 (4) Ordering counseling or professional medical treatment for
10 the defendant or the abused person, or both.

11 **B. A protective order is consistent with this Part if the court**
12 **has jurisdiction over the parties and subject matter, and (1) the**
13 **parties enter into a consent agreement; or (2) reasonable notice and**
14 **opportunity to be heard is given to the person against whom the**
15 **order is sought sufficient to protect that person's right to due**
16 **process.**

17 **C. Any protective order issued within this state or outside**
18 **this state that is consistent with Subsection (B) shall be accorded full**
19 **faith and credit by the courts of this state and enforced as if it were**
20 **the order of the enforcing court.**

21 **D. Mutual protective orders are not entitled to full faith and**
22 **credit unless cross or counter petitions have been filed and the court**
23 **has made specific findings that each party was entitled to such**
24 **order. A protective order issued on behalf of a party who**
25 **petitioned, filed a complaint, or otherwise filed a written pleading**
26 **for protection will be entitled to full faith and credit.**

27 **E. B:** On the motion of any party, the court, after notice to the

1 other parties and a hearing, may modify a prior order to exclude any
2 item included in the prior order or to include any item that could have
3 been included in the prior order.

4 F. E. A protective order made under this Chapter shall be served
5 on the person to whom the order applied in open court at the close of
6 the hearing, or in the same manner as a writ of injunction. The clerk of
7 the issuing court shall send a copy of the ~~order~~ Uniform Protective
8 Order, R.S. 46:2136.2(C), or any modification thereof to the chief law
9 enforcement official of the parish where the person or persons
10 protected by the order reside. A copy of the ~~protective order~~ Louisiana
11 Abuse Prevention Order shall be retained on file in the office of the
12 chief law enforcement officer as provided herein until otherwise
13 directed by the court.

14 G. D. Any final protective order or approved consent agreement
15 shall be for a fixed period of time, not to exceed six months, and may
16 be extended by the court, after a contradictory hearing, in its discretion.
17 Such protective order or extension thereof shall be subject to a
18 devolutive appeal only.

19 H. If a protective order is issued or modified, or a consent
20 agreement is agreed to or modified, the clerk of the issuing court
21 shall transmit that information to the Louisiana Protective Order
22 Registry, R.S. 46:2136.2(A) on a Louisiana Abuse Prevention
23 Order, R.S. 46:2136.2(C), by facsimile transmission or by mail on
24 the date the order is issued, or by direct electronic input where
25 available.

26 Art. 1570.1. Costs paid by abuser

27 Ch.C. Art. 1570.1 is all proposed new law.

1 All court costs, attorney fees, evaluation fees, and expert witness
2 fees incurred in furtherance of this Part shall be paid by the perpetrator
3 of the domestic violence, including all costs of medical and
4 psychological care for the abused adult, or for any of the children,
5 necessitated by the domestic violence.

6 * * *

7 Section 2. Code of Civil Procedure Art. 891 is hereby amended and
8 reenacted and Code of Civil Procedure Art. 3607.1 is hereby enacted to read
9 as follows:

10 Art. 891. Form of petition

11 The petition shall comply with Articles 853, 854, and 863, and,
12 whenever applicable, with Articles 855 through 861. It shall set forth
13 the name, surname, and domicile of the parties; shall contain a short,
14 clear, and concise statement of all causes of action arising out of, and
15 of the material facts of, the transaction or occurrence that is the subject
16 matter of the litigation; shall designate an address, not a post office
17 box, for receipt of service of all items involving the litigation; and shall
18 conclude with a prayer for judgment for the relief sought. Relief may
19 be prayed for in the alternative. **For petitions involving domestic**
20 **violence brought pursuant to R.S. 46:2131 et seq., R.S. 9:361 et seq.,**
21 **Children's Code Article 1564 et seq., or Code of Civil Procedure**
22 **Article 3601 et seq., the address and parish of the residence of each**
23 **petitioner and each person on whose behalf the petition is filed may**
24 **remain confidential with the court.**

25 * * *

26 Art. 3607.1. Registry of temporary restraining order, preliminary
27 injunction or permanent injunction, their dissolution or

1 modification.

2 **C.C.P. Art. 3607.1 is all proposed new law.**

3 Where a temporary restraining order, preliminary injunction or
4 permanent injunction relative to domestic abuse is issued, dissolved or
5 modified, the clerk of court shall transmit this information to the
6 Louisiana Protective Order Registry, R.S. 46:2136.2(A), on a Louisiana
7 Abuse Prevention Order, R.S. 46:2136.2(C) by facsimile transmission
8 or by mail on the date the order is issued, or by direct electronic input
9 where available.

10 * * *

11 Section 3. Code of Criminal Procedure Art. 327.1 and 871.1 are hereby
12 enacted to read as follows:

13 Art. 327.1. Bail Restrictions to be transmitted to Louisiana Protective
14 Order Registry

15 **C.Cr.P. Art. 327.1 is all proposed new law.**

16 If as part of a bail restriction an order is issued for the purpose
17 of preventing violent or threatening acts or harassment against, or
18 contact or communication with or physical proximity to, another person
19 for the purpose of preventing domestic violence, that information shall
20 be transmitted to the Louisiana Protective Order Registry, R.S.
21 46:2136.2(A), on the Louisiana Abuse Prevention Order, R.S.
22 46:2136.2(C). The clerk of the issuing court shall transmit this
23 information by facsimile transmission or by mail on the date the order
24 is issued, or by direct electronic input where available.

25 * * *

26 Art. 871.1. Sentencing orders to be sent to Louisiana Protective Order
27 Registry

1 **C.Cr.P. Art. 871.1 is all proposed new law.**

2 If part of the sentence contains an order for the purpose of
3 preventing violent or threatening acts or harassment against, or contact
4 or communication with or physical proximity to, another person in
5 order to prevent domestic violence, that information shall be
6 transmitted to the Louisiana Protective Order Registry, R.S.
7 46:2136.2(A), on a Louisiana Abuse Prevention Order, R.S.
8 46:2136.2(C). The clerk of the issuing court shall transmit this
9 information by facsimile transmission or by mail on the date the order
10 is issued, or by direct electronic input where available.

11 * * *

12 Section 4. R.S. 9:362(4) is hereby amended and reenacted and R.S.
13 9:376 is hereby enacted to read as follows:

14 **PART IV. POST-SEPARATION FAMILY VIOLENCE RELIEF ACT**

15 §362. Definitions

16 As used in this Part:

17 * * *

18 (4) "Injunction" means a temporary restraining order or a
19 preliminary or a permanent court ordered injunction, as defined in the
20 Code of Civil Procedure, which prohibits the violent parent from in any
21 way contacting the abused parent or the children except for specific
22 purposes set forth in the injunction, which shall be limited to
23 communications expressly dealing with the education, health, and
24 welfare of the children, or for any other purpose expressly agreed to by
25 the abused parent. All such injunctions shall prohibit the violent parent,
26 without the express consent of the abused parent, from intentionally
27 going within fifty yards of the home, school, place of employment, or

1 person of the abused parent and the children, or within fifty feet of any
 2 of their automobiles, except as may otherwise be necessary for court
 3 ordered visitation or except as otherwise necessitated by circumstances
 4 considering the proximity of the parties' residences or places of
 5 employment. This information shall be transmitted to the Louisiana
 6 Protective Order Registry, R.S. 46:2136.2(A), on the Louisiana
 7 Abuse Prevention Order, R.S. 46:2136.2(C).

8 * * *

9 §376. Injunctive Provisions of this Section sent to Louisiana
 10 Protective Order Registry

11 R.S. 9:376 is all proposed new law.

12 The clerk of the issuing court shall transmit the information
 13 relative to R.S. 9:372, on the Louisiana Abuse Prevention Order, R.S.
 14 46:2136.2(C), to the Louisiana Protective Order Registry, R.S.
 15 46:2136.2(A), by facsimile transmission or by mail on the date the
 16 order is issued, or by direct electronic input where available.

17 * * *

18 Section 5. R.S. 13:4243(B) is hereby amended and reenacted and R.S.
 19 13:4243(D) is hereby enacted to read as follows:

20 §4243. Notice of filing

21 * * *

22 B. Promptly upon the filing of the petition, the foreign
 23 judgment, and the affidavit, the clerk shall send a notice by certified
 24 mail to the judgment debtor at the address given and shall make a note
 25 of the mailing in the record. The notice shall include the name and
 26 address of the judgment creditor and his attorney, if any. In addition,
 27 the judgment creditor may mail a notice of the filing to the judgment

1 debtor and may file proof of mailing with the clerk. Failure to mail
2 notice of filing by the clerk shall not affect the enforcement
3 proceedings if proof of mailing by the judgment creditor has been filed.

4 **In cases where the petitioner is seeking to enforce the provisions of**
5 **a protective order as defined by R.S. 46:2136 or Ch.C. Art. 1570,**
6 **the address of the petitioner may remain confidential with the court.**

7 * * *

8 **R.S. 13:4243(D) is all proposed new law.**

9 D. Where a petitioner seeks to enforce a foreign protective
10 order as defined by R.S. 46:2136 or Ch.C.Art. 1570, the clerk of court
11 shall transmit a copy of the order to the Louisiana Protective Order
12 Registry, R.S. 46:2136.2(A) by facsimile transmission or by mail on the
13 date the order is issued, or by direct electronic input where available.

14 Section 6. R.S. 14:79(A) is hereby amended and reenacted to read as
15 follows:

16 §79. Violation of protective orders

17 A.**(1)** Violation of protective orders is the willful disobedience
18 of a preliminary or permanent injunction or protective order issued
19 pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq.,
20 Children's Code Article 1564 et seq., or Code of Civil Procedure
21 Article 3604 after a contradictory court hearing, or the willful
22 disobedience of a temporary restraining order or any ex parte protective
23 order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et
24 seq., Children's Code Article 1564 et seq., or Code of Civil Procedure
25 Article 3604 if the defendant has been given notice of the temporary
26 restraining order or ex parte protective order by service of process as
27 required by law.

1 administer the program to do the following:

2 * * *

3 (2) Increase, improve, and coordinate the delivery of
4 comprehensive services to the victims of domestic marital or family
5 violence.

6 (3) Provide the types of innovative approaches and methods in
7 services designed to reduce the problems of domestic marital and
8 family violence.

9 §2124. Community shelters; funding; services

10 A. Through the program the executive director shall seek to
11 establish a limited number of community-based shelters and
12 family-oriented shelters for victims of family or domestic marital
13 violence. Such shelters may be developed on a contract basis with
14 public or private agencies.

15 * * *

16 §2124.1. Privileged communications and records

17 A. As used in this Section, the following terms shall have the
18 following meanings:

19 * * *

20 (3) "Victim" means a victim or potential victim of an act of
21 family or domestic marital violence and his or her children.

22 * * *

23 §2132. Definitions

24 As used in this Part:

25 * * *

26 (4) "Family or household member" means spouses, former
27 spouses, parents and children, stepparents, stepchildren, foster parents,

1 foster children, and any person presently or formerly living in the
 2 same residence with the defendant as a spouse, whether married or not,
 3 ~~if a minor child or children also live in the residence,~~ who are seeking
 4 protection under this Part. ~~However, i~~ If a parent or grandparent is
 5 being abused by an adult child or adult grandchild, the provisions of
 6 this Part shall apply to any proceeding brought in district court, ;
 7 ~~regardless of whether a minor child lives in the residence.~~

8 * * *

9 §2133. Jurisdiction; venue; standing

10 * * *

11 B. Venue lies:

12 (1) In the parish where the household ~~marital~~ domicile is
 13 located.

14 (2) In the parish where the defendant resides.

15 (3) In the parish where the abuse is alleged to have been
 16 committed.

17 (4) In the parish where the petitioner resides, ~~only as to the~~
 18 ~~issuance of a temporary restraining order and protective order directing~~
 19 ~~the defendant to refrain from abusing, harassing, or interfering with the~~
 20 ~~person or employment or from going near the residence or place of~~
 21 ~~employment of a petitioner or the minor children or any person alleged~~
 22 ~~to be incompetent on whose behalf a petition was filed under this part.~~

23 (5) In the parish where an action for annulment of marriage or
 24 for a divorce could be brought pursuant to Code of Civil Procedure Art.
 25 3941(A).

26 * * *

27 §2134. Petition

1 A. A petition filed under the provisions of this Part shall contain
2 the following:

3 (1) ~~The name, address, and parish of residence~~ of each
4 petitioner and each person on whose behalf the petition is filed, and
5 ~~that~~ **the name, address, and parish of residence** of each individual
6 alleged to have committed abuse, if known; if the petition is being filed
7 on behalf of a child or person alleged to be incompetent, the
8 relationship between that person and the petitioner.

9 (2) The facts and circumstances concerning the alleged abuse.

10 (3) The relationship between each petitioner and each
11 individual alleged to have committed abuse.

12 (4) A request for one or more protective orders.

13 **B. The address and parish of each petitioner and each**
14 **person on whose behalf the petition is filed may remain confidential**
15 **with the court.**

16 ~~C.B.~~ If the petition requests a protective order for a spouse and
17 alleges that the other spouse has committed abuse, the petition shall
18 state whether a suit for divorce is pending.

19 ~~D.C.~~ If the petition requests the issuance of an ex parte
20 temporary restraining order, the petition shall contain an affidavit
21 signed by each petitioner that the facts and circumstances contained in
22 the petition are true and correct to the best knowledge, information, and
23 belief of petitioner. Any false statement under oath contained in the
24 affidavit shall constitute perjury and shall ~~by~~ **be** punishable by a fine
25 of not more than one thousand dollars, or by imprisonment, with or
26 without hard labor, for not more than five years, or both.

27 ~~E. D.~~ If a suit for divorce is pending, any application for a

1 protective order shall be filed in that proceeding and shall be heard
 2 within the delays provided by this Part. Any decree issued in a divorce
 3 proceeding filed subsequent to a petition filed or an order issued
 4 pursuant to this Part may, in the discretion of the court hearing the
 5 divorce proceeding, supersede in whole or in part the orders issued
 6 pursuant to this Part. Such subsequent decree shall be forwarded by the
 7 rendering court to the court having jurisdiction of the petition for a
 8 protective order and shall be made a part of the record thereof. The
 9 findings and rulings made in connection with such protective orders
 10 shall not be res judicata in any subsequent proceeding.

11 §2135. Temporary restraining order

12 * * *

13 B. If a temporary restraining order is granted without notice, the
 14 matter shall be set within ~~ten~~ **thirty** days for a rule to show cause why
 15 the protective order should not be issued, at which time the petitioner
 16 must prove the allegations of abuse by a preponderance of the
 17 evidence. The defendant shall be given notice of the temporary
 18 restraining order and the hearing on the rule to show cause by service
 19 of process as required by law within twenty-four hours of the issuance
 20 of the order.

21 * * *

22 **R.S. 46:2135(G) is all proposed new law.**

23 G. If a temporary restraining order is granted or extended, the
 24 clerk of the issuing court shall transmit that information to the
 25 Louisiana Protective Order Registry, R.S. 46:2136.2(A), on the
 26 Louisiana Abuse Prevention Order, R.S. 46:2136.2(C), by facsimile
 27 transmission or by mail on the date the order is issued, or by direct

1 electronic input where available.

2 * * *

3 §2136. Protective orders; content; modification; service

4 A. The court may grant any protective order or approve any
5 consent agreement to bring about a cessation of abuse of a party, any
6 minor children, or any person alleged to be incompetent, which relief
7 may include, but is not limited to:

8 (1) Granting the relief enumerated in R.S. 46:2135.

9 (2) Where there is a duty to support a party, any minor children,
10 or any person alleged to be incompetent living in the residence or
11 household, ordering payment of temporary support or provision of
12 suitable housing for them.

13 (3) Awarding temporary custody of or establishing temporary
14 visitation rights and conditions with regard to any minor children or
15 person alleged to be incompetent.

16 (4) Ordering counseling or professional medical treatment for
17 the defendant or the abused person, or both.

18 **B. A protective order is consistent with this Part if the court**
19 **has jurisdiction over the parties and subject matter; and (1) the**
20 **parties enter into a consent agreement; or (2) reasonable notice and**
21 **opportunity to be heard is given to the person against whom the**
22 **order is sought sufficient to protect that person's right to due**
23 **process.**

24 **C. Any protective order issued within this state or outside**
25 **this state that is consistent with Subsection (B) shall be accorded full**
26 **faith and credit by the courts of this state and enforced as if it were**
27 **the order of the enforcing court.**

1 **D. Mutual protective orders are not entitled to full faith and**
2 **credit unless cross or counter petitions have been filed and the court**
3 **has made specific findings that each party was entitled to such**
4 **order. A protective order issued on behalf of a party who**
5 **petitioned, filed a complaint, or otherwise filed a written pleading**
6 **for protection will be entitled to full faith and credit.**

7 **E.B.** On the motion of any party, the court, after notice to the
8 other parties and a hearing, may modify a prior order to exclude any
9 item included in the prior order, or to include any item that could have
10 been included in the prior order.

11 **F. C.** A protective order made under this Part shall be served on
12 the person to whom the order applies in open court at the close of the
13 hearing, or in the same manner as a writ of injunction. The clerk of the
14 issuing court shall send a copy of the **Uniform Protective order Order,**
15 **R.S. 46:2136.2(C),** or any modification thereof to the chief law
16 enforcement official of the parish where the person or persons
17 protected by the order reside. A copy of the ~~protective~~ **Uniform**
18 **Protective order Order** shall be retained on file in the office of the
19 chief law enforcement officer as provided herein until otherwise
20 directed by the court.

21 **G. D.** Any final protective order or approved consent agreement
22 shall be for a fixed period of time, not to exceed six months, and may
23 be extended by the court, after a contradictory hearing, in its discretion.
24 Such protective order or extension thereof shall be subject to a
25 devolutive appeal only.

26 **H. If a protective order is granted or modified, or a consent**
27 **agreement is agreed to or modified, the clerk of the issuing court**

1 shall transmit that information to the Louisiana Protective Order
2 Registry, R.S. 46:2136.2(A), on the Louisiana Abuse Prevention
3 Order, R.S. 46:2136.2(C), by facsimile transmission or by mail on
4 the date the order is issued, or by direct electronic input where
5 available.

6 §2136.1. Costs paid by abuser

7 R.S. 46:2136.1 is all proposed new law.

8 All court costs, attorney fees, evaluation fees, and expert witness
9 fees incurred in furtherance of this Part shall be paid by the perpetrator
10 of the domestic violence, including all costs of medical and
11 psychological care for the abused adult, or for any of the children,
12 necessitated by the domestic violence.

13 §2136.2. Louisiana Protective Order Registry

14 R.S. 46:2136.2 is all proposed new law.

15 A. In order to provide a statewide registry for abuse prevention
16 orders to prevent domestic violence and to aid law enforcement,
17 prosecutors and the courts in handling such matters, there shall be
18 created a Louisiana Protective Order Registry administered by the
19 Louisiana Office of the Judicial Administrator. The Louisiana Office
20 of the Judicial Administrator shall collect the data transmitted to it from
21 the courts of the state and enter it into the Louisiana Protective Order
22 Registry.

23 B. The Louisiana Protective Order Registry encompasses peace
24 bonds, temporary restraining orders, protective orders, preliminary
25 injunctions, permanent injunctions, and court approved consent
26 agreements resulting from actions brought pursuant to R.S. 46:2131 et
27 seq., R.S. 9:361 et seq., R.S. 9:372, Children's Code Article 1564 et

1 seq., Code of Civil Procedure Article 3604 or as part of the disposition,
2 sentence, or bail condition of a criminal matter pursuant to Code of
3 Criminal Procedure Article 327.1 and Article 871.1 as long as such
4 order is issued for the purpose of preventing violent or threatening acts
5 or harassment against, or contact or communication with or physical
6 proximity to, another person.

7 C. The courts of this state shall use a Uniform Prevention Order
8 form as approved by the Louisiana Judicial Council.

9 D. The clerk of the issuing court shall send a copy of the order
10 or any modification thereof to the Louisiana Protective Order Registry
11 upon its issuance. Transmittal of this information may be made by
12 facsimile transmission or by mailing a copy of the Louisiana Abuse
13 Prevention Order on the date of issuance or by direct electronic input
14 where available.

15 E. The Louisiana Office of the Judicial Administrator shall
16 make the Louisiana Protective Order Registry available to state and
17 local law enforcement agencies, district attorney offices and the courts.
18 §2137. Penalties; notice of penalty in order

19 A. Upon violation of a temporary restraining order, a protective
20 order, or a court approved consent agreement, the court may hold the
21 defendant in contempt of court and punish the defendant by
22 imprisonment in the parish jail for not more than six months or a fine
23 of not more than five hundred dollars, or both, and may order that all
24 or a part of any fine be forwarded for the support of petitioner and
25 dependents, in the discretion of the court. Such sentence shall be
26 imposed only after trial by the judge of a rule against the defendant to
27 show cause why he should not be adjudged guilty of contempt and

1 punished accordingly. The rule to show cause may issue on the court's
 2 own motion, or on motion of a party to the action or proceeding, and
 3 shall state the facts alleged to constitute the contempt. A certified copy
 4 of the motion, and of the rule to show cause, shall be served upon the
 5 person charged with contempt in the same manner as a subpoena, at
 6 least forty-eight hours before the time assigned for the trial of the rule,
 7 which shall be scheduled within ~~five~~ thirty days of the filing of the
 8 motion of contempt.

9 * * *

10 §2138. Assistance of clerk of court

11 The clerk of court shall make forms available for making
 12 application for protective orders under this Part, provide clerical
 13 assistance to the petitioner when necessary, advise indigent applicants
 14 of the availability of filing in forma pauperis, provide the necessary
 15 forms, as supplied by the Louisiana Office of the Judicial
 16 Administrator, and provide the services of a notary, where available,
 17 for completion of the affidavit required in R.S. 46:2134 (C). ~~The forms~~
 18 ~~shall be prepared by the district attorney.~~

19 * * *

The original instrument was prepared by Heyward Jeffers. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ahmed White.

Dardenne (SB 1425)

DIGEST

Present law makes no provisions for a Louisiana Protective Order Registry and contains no requirements that clerks of the issuing courts transmit copies of such order to the state registry.

Present law provides that a court shall hear within ten days a rule to show cause on a temporary restraining order for protection granted without notice. Present law provides that a court shall schedule within ten days a contempt hearing for the violation of protective order.

Proposed law creates a statewide Louisiana Protective Order Registry and requires clerks of the issuing court to transmit uniform copies of injunctions and protective orders to the registry. Further requires clerks to send a copy of such order to relevant law enforcement officials and provides access to statewide protective order registry to law enforcement, prosecutors, and courts.

Proposed law provides that mutual protective orders will not be issued unless cross or counter petitions have been filed and the court has made specific findings that each party is entitled.

Proposed law expands the scope of protection of those covered under domestic abuse law and expands possible court venues in which domestic abuse matters may be heard.

Proposed law provides that petitioners' addresses may remain confidential with the court.

Proposed law extends from 10 to 30 days the time within which courts shall hear a rule to show cause on a temporary restraining order granted without notice for protection. Proposed law further extends from five to 30 days the time within which a court shall schedule a contempt hearing for the violation of a protective order.

Proposed law provides that violent abusers pay costs of domestic abuse cases.

Proposed law provides that the protective orders issued as bail requirements and as part of a sentence be forwarded to the Louisiana Protective Order Registry.

Proposed law provides that full faith and credit be given to interstate and intrastate protective orders and that there shall be no filing fee for a petition to enforce a foreign protective order in Louisiana.

(Amends Ch.C. Arts. 618, 1565(2), 1566, 1567(A)(1), 1568, 1570, C.C.P. Art. 891; R.S. 9:362(4), R.S. 13:4243(B), R.S. 14:79(A), R.S. 46:2121.1(1), 2123(2) and (3), 2124(A), 2124.1(A)(3), 2132(4), 2133(B), 2134, 2135(B), 2136, 2137(A), and 2138; adds Ch.C. Arts. 617(G), 627(C), 1569(G), 1570.1, C.C.P. Art. 3607.1, C.Cr.P. Art. 327.1, 871.1, R.S. 9:376, R.S. 13:4243(D), R.S. 46:2135(G), 2136.1 and 2136.2)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill.

1. Correct various technical errors.
2. Conform provisions on mutual protective orders to the requirements of federal law by limiting when such protective orders shall be entitled to full faith and credit; also clarifies the meaning of full faith and credit with respect to protective orders in general.

3. Makes permissive, rather mandatory, language in the bill relative to the confidentiality of those who petition for protective orders.
4. Expands possible venues for hearing domestic abuse issues in courts empowered to hear family matters.
5. Clarifies that protective orders issued in bail or sentencing proceedings are included in the bill's provisions for the registration of such orders.
6. Extends from 10 to 30 days the time within which courts shall hear a rule to show cause on a temporary restraining order granted without notice; also extends from five to 30 days the time within which a court shall schedule a contempt hearing for the violation of a protective order.