

Regular Session, 2014

SENATE BILL NO. 529

BY SENATOR MORRELL

DOMESTIC VIOLENCE. Provides relative to restraining orders, protective orders, and injunctions issued in conjunction with domestic abuse cases. (gov sig)

AN ACT

To amend and reenact R.S. 9:366(A) and 372(B) and (C), R.S. 14:79(B), (C), (E), and (F), R.S. 46:2135(G) and (H), 2136(E), (G), and (H), 2136.2(A) and (D), and 2140, Children's Code Articles 1569(H) and (I) and 1570(E), (G), and (H), Code of Civil Procedure Article 3607.1, and Code of Criminal Procedure Articles 30(B), 327.1, 335.2(C), and 871.1 and to enact R.S. 14:79(A)(3)(d), relative to protective orders issued in conjunction with cases of domestic abuse; to provide relative to the procedures for filing Uniform Abuse Prevention Orders in the Louisiana Protective Order Registry; to provide relative to the duties of judges and the Judicial Administrator's Office of the Louisiana Supreme Court relative to the issuance of temporary restraining orders, preliminary or permanent injunctions, and protective orders; to amend the crime of violation of protective orders to include the willful disobedience of a Uniform Abuse Prevention Order; to provide relative to the penalties for violations of protective orders; to provide relative to the duty of law enforcement with regard to enforcing protective orders and violations of protective orders; to provide relative to the determination by law enforcement of the predominant aggressor in domestic abuse cases; to provide for a rebuttable

1 presumption regarding the predominant aggressor; and to provide for related matters.

2 Be it enacted by the Legislature of Louisiana:

3 Section 1. R.S. 9:366(A) and 372(B) and (C) are hereby amended and reenacted to
4 read as follows:

5 §366. Injunctions

6 A. All separation, divorce, child custody, and child visitation orders and
7 judgments in family violence cases shall contain an injunction as defined in R.S.
8 9:362. Upon issuance of such injunction, the judge shall cause to have prepared a
9 Uniform Abuse Prevention Order as provided in R.S. 46:2136.2(C), shall sign such
10 order, and shall immediately forward it to the clerk of court for filing and to the
11 Judicial Administrator's Office, Louisiana Supreme Court for entry into the
12 Louisiana Protective Order Registry, R.S. 46:2136.2(A), all without delay. ~~The~~
13 ~~clerk of the issuing court shall transmit~~ Transmittal of the Uniform Abuse
14 Prevention Order to the Louisiana Protective Order Registry, R.S. 46:2136.2(A), by
15 the judge shall be by facsimile transmission, ~~mail~~, or direct electronic input, where
16 available, as expeditiously as possible, but no later than the end of the ~~next~~ business
17 day ~~after~~ on which the order was issued ~~is filed with the clerk of court.~~ The judge
18 shall also send a copy of the Uniform Abuse Prevention Order, R.S.
19 46:2136.2(C), or any modification thereof, to the chief law enforcement official
20 of the parish where the person or persons protected by the order reside. A copy
21 of the Uniform Abuse Prevention Order shall be retained on file in the office of
22 the chief law enforcement officer until otherwise directed by the court.

23 * * *

24 §372. Injunction against abuse; form; central registry

25 * * *

26 B. Immediately upon rendering a decision granting relief provided in
27 Subsection A of this Section, the judge shall cause to have prepared a Uniform
28 Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and
29 shall immediately forward it to the clerk of court for filing and to the Judicial

1 Administrator's Office, Louisiana Supreme Court for entry into the Louisiana
 2 Protective Order Registry, R.S. 46:2136.2(A), all without delay. The judge shall
 3 also send a copy of the Uniform Abuse Prevention Order, R.S. 46:2136.2(C), or
 4 any modification thereof, to the chief law enforcement official of the parish
 5 where the person or persons protected by the order reside. A copy of the
 6 Uniform Abuse Prevention Order shall be retained on file in the office of the
 7 chief law enforcement officer until otherwise directed by the court.

8 C. ~~The clerk of the issuing court shall transmit~~ **Transmittal of** the Uniform
 9 Abuse Prevention Order to the Louisiana Protective Order Registry, R.S.
 10 46:2136.2(A), **by the judge shall be** by facsimile transmission, ~~mail,~~ or direct
 11 electronic input, where available, as expeditiously as possible, but no later than the
 12 end of the ~~next~~ business day **after on which** the order **was issued** ~~is filed with the~~
 13 ~~clerk of court.~~

14 Section 2. R.S. 14:79(B), (C), (E), and (F) are hereby amended and reenacted and
 15 R.S. 14:79(A)(3)(d) is hereby enacted to read as follows:

16 §79. Violation of protective orders

17 A.

18 * * *

19 (3) Violation of protective orders shall also include the willful disobedience
 20 of the following:

21 * * *

22 **(d) A Uniform Order of Protection from Abuse in the Louisiana**
 23 **Protective Order Registry.**

24 B.(1) On a first conviction for violation of protective orders which does not
 25 involve a battery ~~to~~ **or any act that is enumerated as a crime of violence pursuant**
 26 **to R.S. 14:2(B) against** the person protected by the protective order, the offender
 27 shall be fined not more than five hundred dollars or imprisoned for not more than six
 28 months, or both.

29 (2) On a second conviction for violation of protective orders which does not

1 involve a battery ~~to~~ **or any act that is enumerated as a crime of violence pursuant**
2 **to R.S. 14:2(B) against** the person protected by the protective order, regardless of
3 whether the second offense occurred before or after the first conviction, the offender
4 shall be fined not more than one thousand dollars and imprisoned for not less than
5 forty-eight hours nor more than six months. At least forty-eight hours of the
6 sentence of imprisonment imposed under this Paragraph shall be without benefit of
7 probation, parole, or suspension of sentence. If a portion of the sentence is imposed
8 with benefit of probation, parole, or suspension of sentence, the court shall require
9 the offender to participate in a court-approved domestic abuse counseling program.

10 (3) On a third or subsequent conviction for violation of protective orders
11 which does not involve a battery ~~to~~ **or any act that is enumerated as a crime of**
12 **violence pursuant to R.S. 14:2(B) against** the person protected by the protective
13 order, regardless of whether the current offense occurred before or after the earlier
14 convictions, the offender shall be fined not more than one thousand dollars and
15 imprisoned for not less than fourteen days nor more than six months. At least
16 fourteen days of the sentence of imprisonment imposed under this Paragraph shall
17 be without benefit of probation, parole, or suspension of sentence. If a portion of the
18 sentence is imposed with benefit of probation, parole, or suspension of sentence, the
19 court shall require the offender to participate in a court-approved domestic abuse
20 counseling program, unless the offender has previously been required to participate
21 in such program and, in the discretion of the judge, the offender would not benefit
22 from such counseling.

23 C.(1) Whoever is convicted of the offense of violation of protective orders
24 where the violation involves a battery ~~to~~ **or any act that is enumerated as a crime**
25 **of violence pursuant to R.S. 14:2(B) against** the person protected by the protective
26 order, and who has not been convicted of violating a protective order or of an assault
27 or battery upon the person protected by the protective order within the five years
28 prior to commission of the instant offense, shall be fined not more than five hundred
29 dollars and imprisoned for not less than fourteen days nor more than six months. At

1 least fourteen days of the sentence of imprisonment imposed under this Paragraph
2 shall be without benefit of probation, parole, or suspension of sentence. If a portion
3 of the sentence is imposed with benefit of probation, parole, or suspension of
4 sentence, the court shall require the offender to participate in a court-approved
5 domestic abuse counseling program as part of that probation.

6 (2) Whoever is convicted of the offense of violation of protective orders
7 where the violation involves a battery to or any act that is enumerated as a crime
8 of violence pursuant to R.S. 14:2(B) against the person for whose benefit the
9 protective order is in effect, and who has been convicted not more than one time of
10 violating a protective order or of an assault or battery upon the person for whose
11 benefit the protective order is in effect within the five-year period prior to
12 commission of the instant offense, regardless of whether the instant offense occurred
13 before or after the earlier convictions, shall be fined not more than one thousand
14 dollars and imprisoned for not less than three months nor more than six months. At
15 least fourteen days of the sentence of imprisonment imposed under this Paragraph
16 shall be without benefit of probation, parole, or suspension of sentence. If a portion
17 of the sentence is imposed with benefit of probation, parole, or suspension of
18 sentence, the court shall require the offender to participate in a court-approved
19 domestic abuse counseling program, unless the offender has previously been
20 required to participate in such program and, in the discretion of the court, the
21 offender would not benefit from such counseling.

22 (3) Whoever is convicted of the offense of violation of protective orders
23 where the violation involves a battery to or any act that is enumerated as a crime
24 of violence pursuant to R.S. 14:2(B) against the person for whose benefit the
25 protective order is in effect, and who has more than one conviction of violating a
26 protective order or of an assault or battery upon the person for whose benefit the
27 protective order is in effect during the five-year period prior to commission of the
28 instant offense, regardless of whether the instant offense occurred before or after the
29 earlier convictions, the offender shall be fined not more than two thousand dollars

1 and imprisoned with or without hard labor for not less than one year nor more than
2 five years. At least one year of the sentence of imprisonment imposed under this
3 Paragraph shall be without benefit of probation, parole, or suspension of sentence.

4 * * *

5 E.**(1)** Law enforcement officers shall use every reasonable means, including
6 but not limited to immediate arrest of the violator, to enforce a preliminary or
7 permanent injunction or protective order obtained pursuant to R.S. 9:361 **et seq.**,
8 R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564 et seq.,
9 Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure
10 Articles 327.1, ~~335.1~~ **335.2**, and 871.1 after a contradictory court hearing, or to
11 enforce a temporary restraining order or ex parte protective order issued pursuant to
12 R.S. 9:361 **et seq.**, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, Children's Code
13 Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of
14 Criminal Procedure Articles 327.1 and ~~335.1~~ **335.2** if the defendant has been given
15 notice of the temporary restraining order or ex parte protective order by service of
16 process as required by law.

17 **(2) Law enforcement officers shall immediately arrest a person in**
18 **violation of a temporary restraining order, a preliminary or permanent**
19 **injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S.**
20 **9:372, R.S. 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564 et seq.,**
21 **Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal**
22 **Procedure Articles 30, 327.1, 335.2, and 871.1.**

23 F. This Section shall not be construed to **bar or** limit the effect of any other
24 criminal statute or civil remedy.

25 * * *

26 Section 3. R.S. 46:2135(G) and (H), 2136(E), (G), and (H), 2136.2(A) and (D), and
27 2140 are hereby amended and reenacted to read as follows:

28 §2135. Temporary restraining order

29 * * *

1 G. Immediately upon entering a temporary restraining order, the judge shall
 2 cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S.
 3 46:2136.2(C), shall sign such order, and shall **immediately** forward it to the clerk of
 4 court for filing **and to the Judicial Administrator's Office, Louisiana Supreme**
 5 **Court for entry into the Louisiana Protective Order Registry, R.S. 46:2136.2(A),**
 6 all without delay. **The judge shall also send a copy of the Uniform Abuse**
 7 **Prevention Order, R.S. 46:2136.2(C), or any modification thereof, to the chief**
 8 **law enforcement official of the parish where the person or persons protected by**
 9 **the order reside. A copy of the Uniform Abuse Prevention Order shall be**
 10 **retained on file in the office of the chief law enforcement officer until otherwise**
 11 **directed by the court.**

12 H. ~~The clerk of the issuing court shall transmit~~ **Transmittal of** the Uniform
 13 Abuse Prevention Order to the Louisiana Protective Order Registry, R.S.
 14 46:2136.2(A), **by the judge shall be** by facsimile transmission, ~~mail~~, or direct
 15 electronic input, where available, as expeditiously as possible, but no later than the
 16 end of the ~~next~~ business day **after on which** the order **was issued** is filed ~~with the~~
 17 ~~clerk of court.~~

* * *

§2136. Protective orders; content; modification; service

* * *

21 E. A protective order made under this Part shall be served on the person to
 22 whom the order applies in open court at the close of the hearing, or in the same
 23 manner as a writ of injunction. ~~The clerk of the issuing court shall send a copy of~~
 24 ~~the Uniform Abuse Prevention Order, R.S. 46:2136.2(C), or any modification thereof~~
 25 ~~to the chief law enforcement official of the parish where the person or persons~~
 26 ~~protected by the order reside. A copy of the Uniform Abuse Prevention Order shall~~
 27 ~~be retained on file in the office of the chief law enforcement officer as provided~~
 28 ~~herein until otherwise directed by the court.~~

* * *

1 G. Immediately upon granting a protective order or approving any consent
 2 agreement, the judge shall cause to have prepared a Uniform Abuse Prevention
 3 Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall
 4 immediately forward it to the clerk of court for filing and to the Judicial
 5 Administrator's Office, Louisiana Supreme Court for entry into the Louisiana
 6 Protective Order Registry, R.S. 46:2136.2(A), all without delay. The judge shall
 7 also send a copy of the Uniform Abuse Prevention Order, R.S. 46:2136.2(C), or
 8 any modification thereof, to the chief law enforcement official of the parish
 9 where the person or persons protected by the order reside. A copy of the
 10 Uniform Abuse Prevention Order shall be retained on file in the office of the
 11 chief law enforcement officer until otherwise directed by the court.

12 H. ~~The clerk of the issuing court shall transmit~~ Transmittal of the Uniform
 13 Abuse Prevention Order to the Louisiana Protective Order Registry, R.S.
 14 46:2136.2(A), by the judge shall be by facsimile transmission, ~~mail~~, or direct
 15 electronic input, where available, as expeditiously as possible, but no later than the
 16 end of the ~~next~~ business day after on which the order was issued ~~is filed with the~~
 17 ~~clerk of court.~~

18 * * *

19 §2136.2. Louisiana Protective Order Registry

20 A. In order to provide a statewide registry for abuse prevention orders to
 21 prevent domestic and dating violence and to aid law enforcement, prosecutors, and
 22 the courts in handling such matters, there shall be created a Louisiana Protective
 23 Order Registry administered by the Judicial Administrator's Office, Louisiana
 24 Supreme Court. The Judicial Administrator's Office shall collect the data transmitted
 25 to it from the courts of the state and shall immediately enter it into the Louisiana
 26 Protective Order Registry.

27 * * *

28 D. ~~The clerk of the issuing~~ court shall immediately send a copy of the order
 29 or any modification thereof to the Louisiana Protective Order Registry as

1 expeditiously as possible ~~but no later than by the end of the next business day after~~
2 ~~the order is filed with the clerk of court.~~ Transmittal of the Uniform Abuse
3 Prevention Order may be made by facsimile transmission, ~~mail~~, or direct electronic
4 input, where available, as expeditiously as possible, but no later than the end of the
5 next business day after **on which** the order **was issued** is filed with the clerk of court.

6 * * *

7 §2140. Law enforcement officers; duties

8 A. **Whenever a law enforcement officer has reason to believe that a**
9 **family or household member or dating partner has been abused and the abusing**
10 **party is in violation of a temporary restraining order, a preliminary or**
11 **permanent injunction, or a protective order issued pursuant to R.S. 9:361 et**
12 **seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564**
13 **et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal**
14 **Procedure Articles 30, 327.1, 335.2, and 871.1, the officer shall immediately**
15 **arrest the abusing party.**

16 B. Whenever a law enforcement officer has reason to believe that a family
17 or household member or dating partner has been abused, **and the abusing party is**
18 **not in violation of a restraining order, a preliminary or permanent injunction,**
19 **or a protective order,** the officer shall immediately use all reasonable means to
20 prevent further abuse, including:

21 (1) Arresting the abusive party with a warrant or without a warrant pursuant
22 to Code of Criminal Procedure Article 213, if probable cause exists to believe that
23 a felony has been committed by that person, whether or not the offense occurred in
24 the officer's presence.

25 (2) Arresting the abusive party in case of any misdemeanor crime which
26 endangers the physical safety of the abused person whether or not the offense
27 occurred in the presence of the officer. If there is no cause to believe there is
28 impending danger, arresting the abusive party is at the officer's discretion.

29 (3) Assisting the abused person in obtaining medical treatment necessitated

1 by the battery; arranging for, or providing, or assisting in the procurement of
2 transportation for the abused person to a place of shelter or safety.

3 (4) Notifying the abused person of his right to initiate criminal or civil
4 proceedings; the availability of the protective order, R.S. 46:2136; and the
5 availability of community assistance for domestic violence victims.

6 ~~B.C.~~(1) When a law enforcement officer receives conflicting accounts of
7 domestic abuse or dating violence, the officer shall evaluate each account separately
8 to determine if one party was the predominant aggressor.

9 (2) In determining if one party is the predominant aggressor, the law
10 enforcement officer may consider any other relevant factors, but shall consider the
11 following factors based upon his or her observation:

- 12 (a) Evidence from complainants and other witnesses.
13 (b) The extent of personal injuries received by each person.
14 (c) Whether a person acted in self-defense.
15 (d) An imminent threat of future injury to any of the parties.
16 (e) Prior complaints of domestic abuse or dating violence, if that history can
17 be reasonably ascertained by the officer.

18 (f) The future welfare of any minors who are present at the scene.
19 **(g) The existence of a temporary restraining order, a preliminary or**
20 **permanent injunction, or a protective order issued pursuant to R.S. 9:361 et**
21 **seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564**
22 **et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal**
23 **Procedure Articles 30, 327.1, 335.2, and 871.1. There shall be a rebuttable**
24 **presumption that the predominant aggressor is the person against whom the**
25 **order was filed.**

26 (3)(a) If the officer determines that one person was the predominant
27 aggressor in a felony offense, the officer shall arrest that person. The arrest shall be
28 subject to the laws governing arrest, including the need for probable cause as
29 otherwise provided by law.

1 (b) If the officer determines that one person was the predominant aggressor
 2 in a misdemeanor offense, the officer shall arrest the predominant aggressor if there
 3 is reason to believe that there is impending danger **or if the predominant aggressor**
 4 **is in violation of a temporary restraining order, a preliminary or permanent**
 5 **injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S.**
 6 **9:372, R.S. 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564 et seq.,**
 7 **Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal**
 8 **Procedure Articles 30, 327.1, 335.2, and 871.1.** If there is no threat of impending
 9 danger **or no violation of a temporary restraining order, a preliminary or**
 10 **permanent injunction, or a protective order,** the officer may arrest the
 11 predominant aggressor at the officer's discretion, whether or not the offense occurred
 12 in the presence of the officer. An arrest pursuant to the provisions of this
 13 Subparagraph shall be subject to the laws governing arrest, including the need for
 14 probable cause as otherwise provided by law. The exceptions provided for in R.S.
 15 46:2140 shall apply.

16 (4) As used in this Subsection:

17 (a) "Dating violence" has the meaning as defined in R.S. 46:2151(C).

18 (b) "Domestic abuse" has the meaning as defined in R.S. 46:2132(3).

19 Section 4. Children's Code Articles 1569(H) and (I) and 1570(E), (G), and (H) are
 20 hereby amended and reenacted to read as follows:

21 Art. 1569. Temporary restraining order

22 * * *

23 H. Immediately upon rendering a decision granting the relief requested by
 24 the petitioner, the judge shall cause to have prepared a Uniform Abuse Prevention
 25 Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall
 26 **immediately** forward it to the clerk of court for filing **and to the Judicial**
 27 **Administrator's Office, Louisiana Supreme Court for entry into the Louisiana**
 28 **Protective Order Registry, R.S. 46:2136.2(A),** all without delay. **The judge shall**
 29 **also send a copy of the Uniform Abuse Prevention Order, R.S. 46:2136.2(C), or**

1 any modification thereof, to the chief law enforcement official of the parish
2 where the person or persons protected by the order reside. A copy of the
3 Uniform Abuse Prevention Order shall be retained on file in the office of the
4 chief law enforcement officer until otherwise directed by the court.

5 I. ~~If a temporary restraining order is issued or extended, the clerk of the~~
6 ~~issuing court shall transmit~~ **Transmittal of** the Uniform Abuse Prevention Order to
7 the Louisiana Protective Order Registry, R.S. 46:2136.2(A), by facsimile
8 transmission, mail, or direct electronic input, where available, as expeditiously as
9 possible, but no later than the end of the ~~next~~ **next** business day ~~after~~ **on which** the order
10 **was issued** ~~is filed with the clerk of court.~~

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

12 * * *

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

21 * * *

22 G. Immediately upon rendering a decision granting the relief requested by
23 the petitioner, the judge shall cause to have prepared a Uniform Abuse Prevention
24 Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall
25 **immediately** forward it to the clerk of court for filing **and to the Judicial**
26 **Administrator's Office, Louisiana Supreme Court for entry into the Louisiana**
27 **Protective Order Registry, R.S. 46:2136.2(A),** all without delay. **The judge shall**
28 **also send a copy of the Uniform Abuse Prevention Order, R.S. 46:2136.2(C), or**
29 **any modification thereof, to the chief law enforcement official of the parish**

1 where the person or persons protected by the order reside. A copy of the
 2 Uniform Abuse Prevention Order shall be retained on file in the office of the
 3 chief law enforcement officer until otherwise directed by the court.

4 H. ~~If a protective order is issued or modified, or a consent agreement is~~
 5 ~~agreed to or modified, the clerk of the issuing court shall transmit~~ Transmittal of the
 6 Uniform Abuse Prevention Order to the Louisiana Protective Order Registry, R.S.
 7 46:2136.2(A), by facsimile transmission, ~~mail~~, or direct electronic input, where
 8 available, as expeditiously as possible, but no later than the end of the ~~next~~ business
 9 day after on which the order was issued ~~is filed with the clerk of court.~~

10 * * *

11 Section 5. Code of Civil Procedure Article 3607.1 is hereby amended and reenacted
 12 to read as follows:

13 Art. 3607.1. Registry of temporary restraining order, preliminary injunction or
 14 permanent injunction, ~~their dissolution or modification~~

15 A. Immediately upon rendering a decision granting the petitioner a
 16 temporary restraining order or a preliminary or permanent injunction prohibiting a
 17 person from harming a family or household member or dating partner, the judge shall
 18 cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S.
 19 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of
 20 court for filing and to the Judicial Administrator's Office, Louisiana Supreme
 21 Court for entry into the Louisiana Protective Order Registry, R.S. 46:2136.2(A),
 22 all without delay. The judge shall also send a copy of the Uniform Abuse
 23 Prevention Order, R.S. 46:2136.2(C), or any modification thereof, to the chief
 24 law enforcement official of the parish where the person or persons protected by
 25 the order reside. A copy of the Uniform Abuse Prevention Order shall be
 26 retained on file in the office of the chief law enforcement officer until otherwise
 27 directed by the court.

28 B. ~~Where a temporary restraining order, preliminary injunction, or~~
 29 ~~permanent injunction relative to domestic abuse or dating violence is issued,~~

1 ~~dissolved, or modified, the clerk of court shall transmit~~ **Transmittal of** the Uniform
 2 Abuse Prevention Order to the Louisiana Protective Order Registry, R.S.
 3 46:2136.2(A), **by the judge shall be** by facsimile transmission, ~~mail,~~ or direct
 4 electronic input, where available, as expeditiously as possible, but no later than the
 5 end of the ~~next~~ business day **after on which** the order **was issued** ~~is filed with the~~
 6 ~~clerk of court.~~

7 Section 6. Code of Criminal Procedure Articles 30(B), 327.1, 335.2(C), and 871.1
 8 are hereby amended and reenacted to read as follows:

9 Art. 30. The peace bond

10 * * *

11 B. If the peace bond is for the purpose of preventing domestic abuse or
 12 dating violence, the magistrate shall cause to have prepared a Uniform Abuse
 13 Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall
 14 **immediately** forward it to the clerk of court for filing **and to the Judicial**
 15 **Administrator's Office, Louisiana Supreme Court for entry into the Louisiana**
 16 **Protective Order Registry, R.S. 46:2136.2(A)**, all without delay. **The judge shall**
 17 **also send a copy of the Uniform Abuse Prevention Order, R.S. 46:2136.2(C), or**
 18 **any modification thereof, to the chief law enforcement official of the parish**
 19 **where the person or persons protected by the order reside. A copy of the**
 20 **Uniform Abuse Prevention Order shall be retained on file in the office of the**
 21 **chief law enforcement officer until otherwise directed by the court.** ~~The clerk~~
 22 ~~of the issuing court shall transmit~~ **Transmittal of** the Uniform Abuse Prevention
 23 Order to the Louisiana Protective Order Registry, R.S. 46:2136.2(A), **by the judge**
 24 **shall be** by facsimile transmission, ~~mail,~~ or direct electronic input, where available,
 25 as expeditiously as possible, but no later than the end of the ~~next~~ business day **after**
 26 **on which** the order **was issued** ~~is filed with the clerk of court.~~

27 * * *

28 Art. 327.1. Bail restrictions to be transmitted to Louisiana Protective Order Registry

29 If, as part of a bail restriction, an order is issued for the purpose of preventing

1 violent or threatening acts or harassment against, or contact or communication with
 2 or physical proximity to, another person for the purpose of preventing domestic
 3 abuse, stalking, or dating violence, the judge shall cause to have prepared a Uniform
 4 Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and
 5 shall **immediately** forward it to the clerk of court for filing **and to the Judicial**
 6 **Administrator's Office, Louisiana Supreme Court for entry into the Louisiana**
 7 **Protective Order Registry, R.S. 46:2136.2(A)**, all without delay. **The judge shall**
 8 **also send a copy of the Uniform Abuse Prevention Order, R.S. 46:2136.2(C), or**
 9 **any modification thereof, to the chief law enforcement official of the parish**
 10 **where the person or persons protected by the order reside. A copy of the**
 11 **Uniform Abuse Prevention Order shall be retained on file in the office of the**
 12 **chief law enforcement officer until otherwise directed by the court.** The clerk
 13 of the issuing court shall transmit **Transmittal of** the Uniform Abuse Prevention
 14 Order to the Louisiana Protective Order Registry, R.S. 46:2136.2(A), **by the judge**
 15 **shall be** by facsimile transmission, ~~mail~~, or direct electronic input, where available,
 16 as expeditiously as possible, but no later than the end of the ~~next~~ business day ~~after~~
 17 **on which** the order **was issued** is filed with the clerk of court.

* * *

Art. 335.2. Stalking; conditions of release

* * *

21 C. If, as part of a bail restriction, an order is issued pursuant to the provisions
 22 of this Article, the judge shall cause to have prepared a Uniform Abuse Prevention
 23 Order, as provided in R.S. 46:2136.2, shall sign such order, and shall **immediately**
 24 forward it to the clerk of court for filing **and to the Judicial Administrator's**
 25 **Office, Louisiana Supreme Court for entry into the Louisiana Protective Order**
 26 **Registry, R.S. 46:2136.2(A)**, all without delay. **The judge shall also send a copy**
 27 **of the Uniform Abuse Prevention Order, R.S. 46:2136.2(C), or any modification**
 28 **thereof, to the chief law enforcement official of the parish where the person or**
 29 **persons protected by the order reside. A copy of the Uniform Abuse Prevention**

1 **Order shall be retained on file in the office of the chief law enforcement officer**
 2 **until otherwise directed by the court.** ~~The clerk of the issuing court shall transmit~~
 3 **Transmittal of** the Uniform Abuse Prevention Order to the Louisiana Protective
 4 Order Registry, R.S. 46:2136.2(A), **by the judge shall be** by facsimile transmission;
 5 ~~mail~~, or direct electronic input, where available, as expeditiously as possible, but no
 6 later than the end of the ~~next~~ business day **after on which** the order **was issued** ~~is~~
 7 ~~filed with the clerk of court.~~

* * *

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

10 If part of the sentence contains an order for the purpose of preventing violent
 11 or threatening acts or harassment against, contact or communication with, or physical
 12 proximity to, another person in order to prevent domestic abuse or dating violence,
 13 the judge shall cause to have prepared a Uniform Abuse Prevention Order, as
 14 provided in R.S. 46:2136.2(C), shall sign such order, and shall **immediately** forward
 15 it to the clerk of court for filing **and to the Judicial Administrator's Office,**
 16 **Louisiana Supreme Court for entry into the Louisiana Protective Order**
 17 **Registry, R.S. 46:2136.2(A),** all without delay. **The judge shall also send a copy**
 18 **of the Uniform Abuse Prevention Order, R.S. 46:2136.2(C), or any modification**
 19 **thereof, to the chief law enforcement official of the parish where the person or**
 20 **persons protected by the order reside. A copy of the Uniform Abuse Prevention**
 21 **Order shall be retained on file in the office of the chief law enforcement officer**
 22 **until otherwise directed by the court.** ~~The clerk of the issuing court shall transmit~~
 23 **Transmittal of** the Uniform Abuse Prevention Order to the Louisiana Protective
 24 Order Registry, R.S. 46:2136.2(A), **by the judge shall be** by facsimile transmission;
 25 ~~mail~~, or direct electronic input, where available, as expeditiously as possible, but no
 26 later than the end of the ~~next~~ business day **after on which** the order **was issued** ~~is~~
 27 ~~filed with the clerk of court.~~

28 Section 7. This Act shall become effective upon signature by the governor or, if not
 29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Cathy Wells.

DIGEST

Morrell (SB 529)

Present law provides that the La. Protective Order Registry is a statewide registry for abuse prevention orders to prevent domestic and dating violence and to aid law enforcement, prosecutors, and the courts in handling cases of domestic violence.

Present law provides that any judge issuing any protective or restraining order shall cause to have prepared a Uniform Abuse Prevention Order, or "Uniform Order", which shall be forwarded to the clerk of court for filing. The clerk of court for the issuing court shall then transmit the Uniform Abuse Prevention Order to the La. Protective Order Registry by facsimile, mail, or direct electronic input no later than the end of the next business day after the order is filed with the clerk of court. Upon receipt of such orders, present law requires Judicial Administrator's Office to enter the information into the Registry.

Proposed law retains present law but adds the requirement that the judge who prepares the Uniform Abuse Prevention Order, in addition to forwarding it to the clerk of court for filing, shall also forward the Uniform Abuse Prevention Order to the Judicial Administrator's Office of the La. Supreme Court for entry into the registry and shall provide a copy to the chief law enforcement official of the parish where the person or persons protected by the order reside. Proposed law amends present law and further provides that the transmittal of the Uniform Abuse Prevention Order shall be by facsimile or direct electronic input no later than the end of the business day on which the order was issued.

Proposed law requires the Judicial Administrator's Office to immediately enter such orders into the registry.

Present law provides that the crime of violation of protective orders includes the willful disobedience of an order issued to require a defendant to stay away from a specific person or persons as a condition of his release on bond, probation, or parole.

Proposed law expands the crime of violation of protective orders to include the willful disobedience of a Uniform Abuse Prevention Order in the registry.

Present law provides increased penalties for violations of protective orders which involve a battery against the person who is protected by the protective order.

Proposed law amends present law to provide that the increased penalties apply for violations of protective orders that involve a battery or any act that is enumerated as a crime of violence against the person.

Present law provides that law enforcement officers shall use every reasonable means, including but not limited to immediate arrest of the violator, to enforce a preliminary or permanent injunction, a temporary restraining order or ex parte protective order, or a protective order obtained pursuant to present law.

Proposed law retains present law but provides that law enforcement officers shall immediately arrest a person in violation of a protective order.

Present law provides for the duties of law enforcement relative to domestic abuse and provides that when the officer has reason to believe that a family or household member or dating partner has been abused, the officer shall immediately use all reasonable means to prevent further abuse.

Proposed law retains present law and provides that whenever a law enforcement officer has reason to believe that a family or household member or dating partner has been abused and the abusing party is in violation of a protective order issued pursuant to present law, the officer shall immediately arrest the abusing party.

Present law provides guidelines for the law enforcement officer to determine which party in a domestic dispute is the predominant aggressor. In making this determination, present law requires law enforcement to consider certain factors.

Proposed law retains present law and requires the law enforcement to also consider the existence of a protective order and further provides that there shall be a rebuttable presumption that the predominant aggressor is the person against whom the order was filed.

Present law provides that when the officer determines that one person was the predominant aggressor in a misdemeanor offense, the officer shall arrest the predominant aggressor if there is reason to believe there is impending danger; otherwise, the officer has discretion in whether to make the arrest.

Proposed law retains present law and requires the officer to also make an arrest if the predominant aggressor is in violation of a protective order.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 9:366(A) and 372(B) and (C), R.S. 14:79(B), (C), (E), and (F), R.S. 46:2135(G) and (H), 2136(E), (G), and (H), 2136.2(A) and (D), and 2140, Ch.C. Arts. 1569(H) and (I) and 1570(E), (G), and (H), C.C.P. Art. 3607.1, and C.Cr.P. Arts. 30(B), 327.1, 335.2(C), and 871.1; Adds R.S. 14:79(A)(3)(d))