
DIGEST

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HB 488 Original

2015 Regular Session

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Abstract: Provides relative to criminal offenses involving domestic abuse, provides for procedures following an arrest and initiation of prosecution for such offenses, and provides relative to the imposition of criminal penalties for and other effects that result from a conviction of such offenses.

Present law provides for all of the following:

- (1) Defines the crime of second degree battery as battery when the offender intentionally inflicts "serious bodily injury" as defined by present law.
- (2) Defines the crime of domestic abuse battery as the intentional use of force or violence committed by one household member upon the person of another household member and provides a definition for "household member".
- (3) Requires any offender placed on probation for domestic abuse battery to participate in a court-monitored domestic abuse intervention program and provides that such program shall be comprised of a minimum of 26 in-person sessions.
- (4) Provides that any crime of violence as defined by present law against a person committed by one household member against another household member shall be designated as an act of domestic abuse for consideration in any criminal or civil proceeding.
- (5) Provides that for the purpose of determining whether an offender has a prior conviction of domestic abuse battery, a conviction under the laws of any state statute or ordinance that prohibits the intentional use of force or violence committed by one household member upon another household member shall constitute a prior conviction.
- (6) Defines the crime of domestic abuse aggravated assault as an assault with a dangerous weapon committed by one household member upon another household member and provides a definition of "household member".
- (7) Defines the crime of stalking as the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress and provides that stalking shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual

assault, kidnaping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted.

- (8) Provides that for a first conviction for the crime of stalking, the offender shall be fined not less than \$500 nor more than \$1,000 and shall be imprisoned for not less than 30 days nor more than one year.
- (9) 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. Further provides for increased penalties for violations of protective orders which involve a battery or crime of violence against the person who is protected by the protective order.
- (10) Provides that it shall be unlawful for any person who is convicted of domestic abuse battery to possess a firearm or carry a concealed weapon.
- (11) Prohibits any person against whom the court has issued a permanent injunction or a protective order relative to domestic abuse from possessing a firearm for the duration of the injunction or protective order if it includes a finding that the person subject to the permanent injunction or protective order represents a credible threat to the physical safety of a family member or household member and the permanent injunction or protective order informs the person subject to the permanent injunction or protective order that the person is prohibited from possessing a firearm pursuant to both state and federal law.
- (12) Requires the La. Bureau of Criminal Identification and Information to obtain and file the name, fingerprints, description photographs, and any other pertinent identifying data of certain persons, including but not limited to any person who was arrested for certain offenses, who is incarcerated, who is a fugitive from justice, or who is a habitual offender.

Proposed law provides for all of the following:

- (1) Amends the present law definition of "serious bodily injury" for purposes of second degree battery to include strangulation and defines "strangulation" as intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck by blocking the nose or mouth of the victim.
- (2) Expands the crimes of domestic abuse battery and domestic abuse aggravated assault to include family members and dating partners as possible victims.
- (3) Defines "family member" and "dating partner" and amends the definition of "household member" for the crimes of domestic abuse battery and domestic abuse aggravated assault.
- (4) Amends the definition of "court-monitored domestic abuse intervention program" to require that the 26 in-person sessions occur over a minimum of 26 weeks.

- (5) Amends present law to provide that a prior conviction of domestic abuse battery also includes a conviction under the laws of any state or ordinance that prohibits the intentional use of force or violence committed against a family member or dating partner.
- (6) Provides that any offense involving the use of force or the threat of the use of force against a person, including stalking, committed by one household member, family member, or dating partner against another household member, family member, or dating partner shall be designated as an act of domestic abuse for consideration in any civil or criminal proceeding.
- (7) Expands the crime of stalking to specifically include written threats.
- (8) Amends penalties for a first conviction of the crime of stalking, to provide that the sentence shall be served with or without hard labor.
- (9) Amends present law to provide that the increased penalties for violations of protective orders are applied when the violation involves a crime of violence or any offense involving the use of force or the threat of the use of force against the person protected by the protective order.
- (10) Increases the maximum term of imprisonment from six months to one year for a third or subsequent conviction for the crime of violation of protective orders that does not involve a crime of violence or any offense involving the use of force or the threat of the use of force against the person protected by the protective order. Further provides that the sentence shall be served with or without hard labor.
- (11) Provides that the sentence imposed for a first offense violation of a protective order that involves a crime of violence or an offense involving the use of force or the threat of use of force against the person protected by the protective order shall be served with or without hard labor.
- (12) Increases the maximum term of imprisonment from six months to one year and increases the minimum mandatory sentence from 14 days to 30 days for a second conviction that involves a crime of violence or any offense involving the use of force or the threat of the use of force against the person protected by the protective order. Further provides that the sentence shall be served with or without hard labor.
- (13) Amends all references of "court-approved domestic abuse counseling program" in the present law crime of violation of protective orders to provide that the offender shall participate in a "court-monitored domestic abuse intervention program" as defined in the crime of domestic abuse battery.
- (14) Expands present law to prohibit any person convicted of stalking from possessing a firearm or carrying a concealed weapon.
- (15) Expands the present law prohibition on the possession of firearms for the duration of a permanent injunction or protective order to any person against whom a protective order or

permanent injunction was issued pursuant to the Protection from Stalking Act or as a condition of release on bail for an offense against a family or household member or dating partner. Further provides that the prohibition shall also apply to those persons subject to a court-approved consent agreement issued pursuant to present law, the Protection from Stalking Act, or as a condition of release on bail for an offense against a family or household member or dating partner.

- (16) Amends present law to require the La. Bureau of Criminal Identification and Information to obtain and file the name, fingerprints, description photographs, and any other pertinent identifying data of any person who has been arrested, or has been issued a summons, for a violation of any state law or local ordinance that prohibits the use or attempted use of force, or the threatened use of force or a deadly weapon against any family member, household member, or dating partner.
- (17) When instituting the prosecution of an offense involving the use or attempted use of force, or the threatened use of force or a deadly weapon against any family member, household member, or dating partner, requires the prosecutor to include the following information in the indictment, information, or affidavit: date of the arrest, relationship of the defendant to the victim, and the state identification number of the defendant if one has been assigned to the defendant for this offense or for any prior offenses.

(Amends R.S. 14:34.1(B)(3), 35.3(A), (B)(3)(intro. para.), (4), (5), and (6), (G), and (J), 37.7(A) and (B), 40.2(A) and (B)(1)(a), 79(B), (C), and (H), and 95.10(A), (C), and (E), and R.S. 15:590(intro. para.), and R.S. 46:2136.3(A); Adds R.S. 14:34.1(B)(4) and 35.3(B)(7) and (8), R.S. 15:590(8), and C.Cr.P. Art. 387)