

2015 Regular Session

HOUSE BILL NO. 722

BY REPRESENTATIVES BILLIOT, ARMES, BOUIE, COX, GISCLAIR, HILL,
HONORE, HOWARD, JONES, NANCY LANDRY, TERRY LANDRY,
MONToucET, MORENO, NORTON, ORTEGO, PRICE, PUGH, PYLANT,
SMITH, ST. GERMAIN, AND WOODRUFF

1 AN ACT

2 To amend and reenact R.S. 46:2131, 2132(3) and (4), 2135(A)(introductory paragraph),
3 2136(A)(introductory paragraph), and 2140(A) and (C)(2)(g) and (3)(b), relative to
4 domestic abuse assistance; to provide relative to domestic abuse between dating
5 partners; to provide relative to non-physical offenses; to provide relative to the
6 issuance of temporary restraining orders; to provide relative to the granting of
7 protective orders; to provide relative to duties of law enforcement officers; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 46:2131, 2132(3) and (4), 2135(A)(introductory paragraph),
11 2136(A)(introductory paragraph), and 2140(A) and (C)(2)(g) and (3)(b) are hereby amended
12 and reenacted to read as follows:

13 §2131. Purposes

14 The purpose of this Part is to recognize and address the complex legal and
15 social problems created by domestic violence. The legislature finds that existing
16 laws which regulate the dissolution of marriage do not adequately address problems
17 of protecting and assisting the victims of domestic abuse. The legislature further
18 finds that previous societal attitudes have been reflected in the policies and practices
19 of law enforcement agencies and prosecutors which have resulted in different
20 treatment of crimes occurring between family ~~or~~ members, household members, or
21 dating partners and those occurring between strangers. It is the intent of the
22 legislature to provide a civil remedy for domestic violence which will afford the
23 victim immediate and easily accessible protection. Furthermore, it is the intent of

1 the legislature that the official response of law enforcement agencies to cases of
2 domestic violence shall stress the enforcement of laws to protect the victim and shall
3 communicate the attitude that violent behavior is not excused or tolerated.

4 §2132. Definitions

5 As used in this Part:

6 * * *

7 (3) "Domestic abuse" includes but is not limited to physical or sexual abuse
8 and any offense against the person, physical or non-physical, as defined in the
9 Criminal Code of Louisiana, except negligent injury and defamation, committed by
10 one family ~~or~~ member, household member, or dating partner against another.
11 "Domestic abuse" also includes abuse of adults as defined in R.S. 15:1503 when
12 committed by an adult child or adult grandchild.

13 (4) "Family members" means spouses, former spouses, parents and children,
14 stepparents, stepchildren, foster parents, and foster children. "Household members"
15 means any person of the opposite sex presently or formerly living in the same
16 residence with the defendant as a spouse, whether married or not, who is seeking
17 protection under this Part. "Dating partner" means any person protected from
18 violence under R.S. 46:2151 who is seeking protection under this Part. If a parent
19 or grandparent is being abused by an adult child, adult foster child, or adult
20 grandchild, the provisions of this Part shall apply to any proceeding brought in
21 district court.

22 * * *

23 §2135. Temporary restraining order

24 A. Upon good cause shown in an ex parte proceeding, the court may enter
25 a temporary restraining order, without bond, as it deems necessary to protect from
26 abuse the petitioner, any minor children, or any person alleged to be an incompetent.
27 Any person who shows immediate and present danger of abuse shall constitute good
28 cause for purposes of this Subsection. The court shall consider any and all past
29 history of abuse, or threats thereof, in determining the existence of an immediate and

1 present danger of abuse. There is no requirement that the abuse itself be recent,
2 immediate, or present. The order may include but is not limited to the following:

3 * * *

4 §2136. Protective orders; content; modification; service

5 A. The court may grant any protective order or approve any consent
6 agreement to bring about a cessation of domestic abuse as defined in R.S.
7 46:2132(3), or the threat or danger thereof, ~~of~~ to a party, any minor children, or any
8 person alleged to be incompetent, which relief may include but is not limited to:

9 * * *

10 §2140. Law enforcement officers; duties

11 A. If a law enforcement officer has reason to believe that a family or
12 household member or dating partner has been abused and the abusing party is in
13 violation of a temporary restraining order, a preliminary or permanent injunction, or
14 a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et
15 seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code Article 1564 et seq., Code
16 of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles
17 30, 327.1, 335.1, 335.2, and 871.1, the officer shall immediately arrest the abusing
18 party.

19 * * *

20 C.

21 * * *

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

25 * * *

26 (g) The existence of a temporary restraining order, a preliminary or
27 permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S.
28 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code
29 Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of
30 Criminal Procedure Articles 30, 327.1, 335.1, 335.2, and 871.1. The officer shall

1 presume that the predominant aggressor is the person against whom the order was
2 issued.

3 (3)

4 * * *

5 (b) If the officer determines that one person was the predominant aggressor
6 in a misdemeanor offense, the officer shall arrest the predominant aggressor if there
7 is reason to believe that there is impending danger or if the predominant aggressor
8 is in violation of a temporary restraining order, a preliminary or permanent
9 injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372,
10 R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code Article
11 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal
12 Procedure Articles 30, 327.1, 335.1, 335.2, and 871.1. If there is no threat of
13 impending danger or no violation of a temporary restraining order, a preliminary or
14 permanent injunction, or a protective order, the officer may arrest the predominant
15 aggressor at the officer's discretion, whether or not the offense occurred in the
16 presence of the officer. An arrest pursuant to the provisions of this Subparagraph
17 shall be subject to the laws governing arrest, including the need for probable cause
18 as otherwise provided by law. The exceptions provided for in this Section shall
19 apply.

20 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____