
DIGEST

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HB 223 Reengrossed

2017 Regular Session

Moreno

Abstract: Creates the crimes of battery of a dating partner and aggravated assault upon a dating partner, and expands applicability of other laws relative to domestic abuse to include abuse among dating partners.

Present law provides for the following:

- (1) The crime of domestic abuse battery for cases involving the use of force or violence by one household member or family member against another household member or family member. In addition to criminal penalties, prohibits persons convicted of domestic abuse battery from possessing a firearm for a period of 10 years from the date of completion of sentence, probation, parole, or suspension of sentence.
- (2) The crime of domestic abuse aggravated assault for cases involving an assault with a dangerous weapon by one household member or family member against another household member or family member. Because the offense is a felony and is designated as a crime of violence, persons convicted of the offense are prohibited from possessing a firearm for a period of ten years from the date of completion of sentence, probation, parole, or suspension of sentence.

Proposed law creates the crime of battery of a dating partner and provides for all of the following in this regard:

- (1) Criminal penalties including fines, terms of imprisonment, and enhanced penalties for offenses involving burning or strangulation.
- (2) Requires those persons placed on probation for the offense to complete a court-monitored domestic abuse intervention program and prohibits those persons from possessing a firearm for the entirety of the sentence.
- (3) Expands the present law (R.S. 14:95.10) prohibition on the possession of firearms by persons convicted of domestic abuse battery to include persons convicted of a second or subsequent offense of battery of a dating partner and persons convicted of battery of dating partner where the offense involves strangulation or burning.
- (4) Defines "dating partner" as any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate

involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. Provides that "dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

Proposed law creates the crime of aggravated assault upon a dating partner, as defined by proposed law, and provides criminal penalties for the offense. Further designates the crime as a crime of violence, and therefore, persons convicted of the offense are prohibited from possessing a firearm for a period of ten years from the date of completion of sentence, probation, parole, or suspension of sentence as provided by present law.

Present law provides for all of the following with regard to domestic abuse by one household member or family member against another household member or family member:

- (1) Requires the La. Bureau of Criminal Identification and Information to obtain and file the name, fingerprints, description, photographs, and other pertinent identifying data of any person who has been arrested, or has been issued a summons and subsequently convicted, for a violation of any state law or ordinance that prohibits the use of force or a deadly weapon against any family member or household member.
- (2) 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 the injunction or order includes a finding that the person represents a credible threat to the physical safety of a family member or household member and the injunction or order informs the person that he is prohibited from possessing a firearm pursuant to both state and federal law.
- (3) For crimes in which the accused is charged with a crime involving abusive behavior against a family member or household member, provides for the admissibility of evidence of the accused's commission of another crime, wrong, or act involving assaultive behavior against a family member or household member unless the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time.
- (4) Requires the district attorney to include certain information in the indictment, information, or affidavit when instituting the prosecution for an offense involving a violation of any state law or local ordinance that prohibits the use of force or a deadly weapon against a family member or household member.
- (5) For all of these purposes, present law provides for the following definitions:
 - (a) "Household member" means any person of the opposite sex presently or formerly living in the same residence with the offender as a spouse, whether married or not, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.
 - (b) "Family member" means spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, and foster children.
- (7) Defines "dating partner", for purposes of the present law Protection from Dating Violence

Act (R.S. 46:2151 et seq.), as any person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Proposed law expands the applicability of these provisions of present law to cases of abuse involving dating partners, and amends the definition of "dating partners" to have the same meaning as provided in the proposed law crime of battery of a dating partner.

(Amends R.S.14:95.10(A), (C), and (E), R.S. 15:590(8), R.S. 46:2136.3(A)(intro. para.) and (1) and 2151(B), C.E. Art. 412.4(A) and (D), and C.Cr.P. Art. 387(A)(intro. para.); Adds R.S. 14:2(B)(47), 34.9, and 34.9.1)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Remove proposed law provisions that expanded the application of the crimes of domestic abuse battery and domestic abuse aggravated assault to dating partners.
2. Create the crimes of battery of a dating partner and aggravated assault upon a dating partner and provide criminal penalties for these crimes.
3. Designate the crime of aggravated assault upon a dating partner as a crime of violence.
4. Expand the present law crime prohibiting possession of a firearm by persons convicted of domestic abuse battery to include persons convicted of a second or subsequent offense of battery of a dating partner and persons convicted of battery of a dating partner when the offense involves burning or strangulation.
5. Amend the definition of "dating partner" for purposes of present law and proposed law.
6. Amend the definition of "abusive behavior" for purposes of the present law provision regarding the admissibility of evidence of similar crimes, wrongs, or acts in domestic abuse cases.