

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 509

2017 Regular Session

Schroder

FAMILY VIOLENCE: Provides relative to temporary restraining orders

Synopsis of Senate Amendments

1. With regard to a defendant who is alleged to have committed an offense against a family member, household member, or dating partner, or who is alleged to have committed the offense of domestic abuse battery, stalking, first degree rape, or an offense involving sexual assault, amends proposed law to authorize, instead of require, the court to impose upon the defendant a condition of bail that prohibits the defendant from communicating with a victim of the offense, or with any of the victim's immediate family members, while the case is pending.
2. Removes the proposed law provision which authorizes the defendant to contact an immediate family member of the victim if the immediate family member consents in person or through a communication through the local prosecuting agency.

Digest of Bill as Finally Passed by Senate

Present law provides for the crime of violation of protective orders which prohibits any person from willfully disobeying a preliminary or permanent injunction, protective order, or criminal stay-away order issued pursuant to present law. Present law further provides for the following penalties for the offense:

- (1) If the offense does not involve a battery or a crime of violence against the person protected by the order:
 - (a) On a first conviction, the offender shall be fined not more than \$500 or imprisoned for not more than six months, or both.
 - (b) On a second conviction, the offender shall be fined not more than \$1,000 and imprisoned for not less than 48 hours nor more than six months. At least 48 hours of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence.
 - (c) On a third or subsequent conviction, the offender shall be fined not more than \$1,000 and imprisoned with or without hard labor for not less than 14 days nor more than two years. At least 14 days of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence.
- (2) If the offense involves a battery or a crime of violence against the person protected by the order:
 - (a) If the offender has not been convicted of violating a protective order or of an assault or battery upon the person protected by the protective order within five years prior to the commission of the instant offense, the offender shall be fined not more than \$500 and imprisoned for not less than 14 days nor more than six months. At least 14 days of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence.

- (b) If the offender has been convicted not more than one time of violating a protective order or of an assault or battery upon the person for whose benefit the protective order is in effect within the five-year period prior to commission of the instant offense, the offender shall be fined not more than \$1,000 and imprisoned with or without hard labor for not less than three months nor more than two years. At least 30 days of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence.
- (c) If the offender has more than one conviction of violating a protective order or of an assault or battery upon the person for whose benefit the protective order is in effect during the five-year period prior to commission of the instant offense, the offender shall be fined not more than \$2,000 and imprisoned with or without hard labor for not less than one year nor more than five years. At least one year of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence.

Proposed law amends the present law penalties as follows:

- (1) On a first conviction for violation of protective orders which does not involve a battery or any crime of violence against the person protected by the order, the offender shall be fined not more than \$500 or imprisoned for not more than six months, or both.
- (2) On a second or subsequent conviction for violation of protective orders which does not involve a battery or any crime of violence against the person protected by the order, the offender shall be fined not more than \$1,000 and imprisoned with or without hard labor for not less than 14 days nor more than two years. At least 14 days of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence.
- (3) If the offense involves a battery or any crime of violence against the person protected by the order, the offender shall be fined not more than \$1,000 and imprisoned with or without hard labor for not less than three months nor more than two years. At least 30 days of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence.
- (4) If the offense involves a battery or any crime of violence against the person protected by the order and the offender has a conviction of violating a protective order or of an assault or battery upon the person for whose benefit the protective order is in effect during the five-year period prior to commission of the instant offense, the offender shall be fined not more than \$2,000 and imprisoned with or without hard labor for not less than one year nor more than five years. At least one year of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence.

For a defendant who is alleged to have committed an offense against a family member, household member, or dating partner, or who is alleged to have committed the offense of domestic abuse battery, stalking, first degree rape, or an offense involving sexual assault, present law (C.Cr.P. Art. 320(G)) authorizes the court to impose upon the defendant a condition of bail that prohibits the defendant from going to the residence or household of the victim, the victim's school, and the victim's place of employment or otherwise contacting the victim in any manner whatsoever, and from having any further contact with the victim.

Proposed law retains present law and further authorizes the court to require, as a condition of the defendant's release on bail, that the defendant be prohibited from communicating with a victim of the offense, or with any of the victim's immediate family members, while the case is pending.

Proposed law provides that this condition does not apply if the victim consents in person or through a communication through the local prosecuting agency.

(Amends R.S. 14:79(A)(1)(a), (B), (C) and C.Cr.P. Art. 320(G))