

2018 Regular Session

SENATE BILL NO. 60

BY SENATOR MARTINY

DOMESTIC VIOLENCE. Provides relative to civil actions for domestic abuse. (gov sig)

1 AN ACT

2 To amend and reenact Civil Code Article 2315.8(A), and to enact Civil Code Article 3496.3  
3 and Code of Evidence Article 412.5, relative to civil liability for domestic abuse; to  
4 provide certain requirements, terms, and procedures; to provide relative to dating  
5 partners; to provide relative to certain actions and prescriptive periods; to provide  
6 relative to certain evidence; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Civil Code Article 2315.8(A) is hereby amended and reenacted, and Civil  
9 Code Article 3496.3 is hereby enacted, to read as follows:

10 Art. 2315.8. Liability for damages caused by domestic abuse

11 A. In addition to general and special damages, exemplary damages may be  
12 awarded upon proof that the injuries on which the action is based were caused by a  
13 wanton and reckless disregard for the rights and safety of a family or household  
14 member, as defined in R.S. 46:2132, **or dating partner, as defined in R.S. 46:2151,**  
15 through acts of domestic abuse resulting in serious bodily injury or severe emotional  
16 and mental distress, regardless of whether the defendant was prosecuted for his or  
17 her acts.

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**Art. 3496.3. Action against a person for domestic abuse**

**An action against a person for an act of domestic abuse as defined in R.S. 46:2132(3), family violence as defined in R.S. 9:362(4), or sexual abuse as defined in R. S. 9:362(6), is subject to a liberative prescriptive period of three years. This prescription commences to run from the day the injury or damage is sustained in the case of non-married persons. If the victim and defendant were married at the time of the occurrence of the act, this prescription commences to run from the day their judgment of divorce becomes final and definitive.**

Section 2. Code of Evidence Article 412.5 is hereby enacted to read as follows:

**Art. 412.5. Evidence of similar crimes, wrongs, or acts in certain civil cases**

**A. In any civil action alleging acts of domestic abuse as defined in R.S. 46:2132(3), family violence as defined in R.S. 9:362(4), or sexual abuse as defined in R.S. 9:362(6) evidence of the defendant's commission of a crime, wrong, or act involving acts of domestic abuse, family violence, or sexual abuse may be admissible and may be considered for its bearing on any matter to which it is relevant subject to the balancing test provided in Article 403.**

**B. A plaintiff in a tort action intending to offer evidence under the provisions of this Article shall provide reasonable notice in advance of trial of the nature of such evidence.**

**C. The provisions of this Article shall not be construed to preclude or limit the introduction or consideration of any evidence otherwise authorized under law.**

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Xavier I. Alexander.

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DIGEST

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Present law authorizes exemplary damages under certain circumstances for domestic abuse caused by a wanton and reckless disregard for the rights and safety of a family or household member.

Proposed law retains present law and adds dating partner as a person who may recover such exemplary damages.

Proposed law also provides certain prescriptive period terms for a civil action for an act of domestic abuse, family violence, or sexual abuse.

Proposed law further authorizes the admissibility and consideration in such actions of evidence of the defendant's commission of a crime, wrong, or act involving domestic abuse, family violence, or sexual abuse.

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

(Amends C.C. Art. 2315.8(A); adds C.C. Art. 3496.3 and C.E. Art. 412.5)