

2018 Regular Session

HOUSE BILL NO. 773

BY REPRESENTATIVE LYONS

DOMESTIC ABUSE: Requires a mental health evaluation upon the issuance of a protective order in domestic abuse cases

1 AN ACT

2 To amend and reenact R.S. 46:2136(A) and 2136.1(A), relative to protective orders and
3 consent agreements issued in domestic abuse cases; to require the psychiatric
4 evaluation of an abuser; to require notification to the human services district; to
5 provide for payment of costs; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 46:2136(A) and 2136.1(A) are hereby amended and reenacted to read
8 as follows:

9 §2136. Protective orders; content; modification; service

10 A.(1) The court may grant any protective order or approve any consent
11 agreement to bring about a cessation of domestic abuse as defined in R.S. 46:2132,
12 or the threat or danger thereof, to a party, any minor children, or any person alleged
13 to be incompetent, ~~which relief.~~

14 (2) The protective order or consent agreement may include but is not limited
15 to the following relief:

16 ~~(1)~~ (a) Granting the relief enumerated in R.S. 46:2135.

17 ~~(2)~~ (b) Where there is a duty to support a party, any minor children, or any
18 person alleged to be incompetent living in the residence or household, ordering
19 payment of temporary support or provision of suitable housing for them, or granting
20 possession to the petitioner of the residence or household to the exclusion of the

1 defendant, by evicting the defendant or restoring possession to the petitioner where
2 the residence is solely owned by the defendant and the petitioner has been awarded
3 the temporary custody of the minor children born of the parties.

4 ~~(3)~~ (c) Awarding temporary custody of or establishing temporary visitation
5 rights and conditions with regard to any minor children or person alleged to be
6 incompetent.

7 ~~(4)(a)~~ (d)(i) Ordering an additional medical opinion regarding a medical
8 evaluation of the defendant or the abused person, or both, to be conducted by an
9 independent court-appointed evaluator who qualifies as an expert in the field of
10 domestic abuse. The evaluation shall be conducted by a person who has no family,
11 financial, or prior medical relationship with the defendant or abused person, or their
12 attorneys of record.

13 ~~(b)~~ (ii) If the additional medical opinion medical evaluation is ordered for
14 both the defendant and abused person, two separate evaluators shall be appointed.

15 ~~(c)~~ (iii) After an additional medical opinion medical evaluation has been
16 completed and a report issued, the court may order counseling or other medical
17 treatment as deemed appropriate.

18 (3)(a) The protective order or consent agreement shall include an order for
19 a psychiatric evaluation of the defendant to be conducted by a human services
20 district or authority or other provider approved by the court.

21 (b) The court may use the results of the psychiatric evaluation to determine
22 whether to order further mental evaluation of the defendant.

23 (c) If the defendant fails to seek a psychiatric evaluation required by this
24 Paragraph, the defendant may be held in contempt of court.

25 (d) The court shall notify a human services district or authority when a
26 protective order or consent agreement requires a psychiatric evaluation to be
27 conducted by the human services district or authority.

28 * * *

1 §2136.1. Costs paid by abuser

2 A. All court costs, attorney fees, costs of enforcement and modifications

3 proceedings, costs of appeals, evaluation fees, and expert witness fees incurred in

4 maintaining or defending any proceeding concerning domestic abuse assistance in

5 accordance with the provisions of this Part shall be paid by the perpetrator of the

6 domestic violence, including all costs of medical and psychological care for the

7 abused adult, or for any of the children, necessitated by the domestic violence and

8 all costs associated with the psychiatric evaluation required pursuant to R.S.

9 46:2136(A)(3).

* * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 773 Original

2018 Regular Session

Lyons

Abstract: Requires that a protective order issued in a domestic abuse case include an order for the psychiatric evaluation of the defendant.

Present law provides that a court may grant a protective order or approve a consent agreement to bring about the cessation of domestic abuse. Further provides that when granted the protective order, the court may order a medical opinion regarding a medical evaluation of the defendant or the abused person, or both, to be conducted by an independent court-appointed evaluator.

Proposed law provides that a protective order or consent agreement shall include an order for a psychiatric evaluation of the defendant to be conducted by a human services district or authority or other provider approved by the court. Failure to seek the psychiatric evaluation may cause the defendant to be held in contempt of court. Provides that the court may use the results of the psychiatric evaluation to determine whether to order further mental evaluation of the defendant.

Present law provides that the perpetrator of domestic violence pay all court costs, attorney fees, costs of enforcement and modifications proceedings, costs of appeals, evaluation fees, medical costs, and expert witness fees incurred in maintaining or defending any proceeding concerning domestic abuse assistance. Proposed law further requires the perpetrator to pay all costs associated with the psychiatric evaluation required by proposed law.

(Amends R.S. 46:2136(A) and 2136.1(A))