

2018 Regular Session

HOUSE BILL NO. 207

BY REPRESENTATIVE BAGLEY

DOMESTIC ABUSE: Requires those who serve temporary protective orders or protective orders to transmit a service return to the Louisiana Protective Order Registry

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 1292, R.S. 14:79(A)(1)(b), and R.S.  
3 46:2136.2(A) and to enact Code of Civil Procedure Article 1293(D), relative to  
4 temporary restraining orders and protective orders; to require the transmission of  
5 proof of service of certain temporary restraining orders, protective orders,  
6 preliminary injunctions, permanent injunctions, and consent agreements to the  
7 Louisiana Protective Order Registry; to provide for the method of transmission and  
8 the time period within which transmission must be made; and to provide for related  
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Civil Procedure Article 1292 is hereby amended and reenacted  
12 and Code of Civil Procedure Article 1293(D) is hereby enacted to read as follows:

13 Art. 1292. Sheriff's return

14 A. The sheriff shall endorse on a copy of the citation or other process the  
15 date, place, and method of service and sufficient other data to show service in  
16 compliance with law. He shall sign and return the copy promptly after the service  
17 to the clerk of court who issued it. The return, when received by the clerk, shall form  
18 part of the record, and shall be considered prima facie correct. The court, at any time  
19 and upon such terms as are just, may allow any process or proof of service thereof

1 to be amended, unless it clearly appears that material prejudice would result to the  
2 substantial rights of the party against whom the process issued.

3 B. In addition to the provisions of Subsection A of this Section, when the  
4 citation or other process is a temporary restraining order, protective order,  
5 preliminary injunction, permanent injunction, or court-approved consent agreement  
6 as referenced in R.S. 46:2136.2(B), the person making the service, or his designee,  
7 shall transmit proof of service to the Judicial Administrator's Office, Louisiana  
8 Supreme Court, for entry into the Louisiana Protective Order Registry, as provided  
9 in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as  
10 expeditiously as possible, but no later than the end of the next business day after  
11 making service, exclusive of weekends and holidays. This proof shall include, at a  
12 minimum, the case caption, docket number, type of order, serving agency and  
13 officer, and the date and time service was made.

14 Art. 1293. Service by private person

15 \* \* \*

16 D. In addition to the provisions of Subsection A of this Section, when the  
17 citation or other process is a temporary restraining order, protective order,  
18 preliminary injunction, permanent injunction, or court-approved consent agreement  
19 as referenced in R.S. 46:2136.2(B), the person making the service, or his designee,  
20 shall transmit proof of service to the Judicial Administrator's Office, Louisiana  
21 Supreme Court, for entry into the Louisiana Protective Order Registry, as provided  
22 in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as  
23 expeditiously as possible, but no later than the end of the next business day after  
24 making service, exclusive of weekends and holidays. This proof shall include, at a  
25 minimum, the case caption, docket number, type of order, serving agency and  
26 officer, and the date and time service was made.

1 Section 2. R.S. 14:79(A)(1)(b) is hereby amended and reenacted to read as follows:

2 §79. Violation of protective orders

3 A.(1)

4 \* \* \*

5 (b) A defendant may also be deemed to have been properly served if  
6 tendered a certified copy of a temporary restraining order or ex parte protective  
7 order, or if tendered a faxed or electronic copy of a temporary restraining order or  
8 ex parte protective order received directly from the issuing magistrate,  
9 commissioner, hearing officer, judge or court, by any law enforcement officer who  
10 has been called to any scene where the named defendant is present. Such service of  
11 a previously issued temporary restraining order or ex parte protective order if noted  
12 in the police report shall be deemed sufficient evidence of service of process and  
13 admissible in any civil or criminal proceedings. A law enforcement officer making  
14 service under this Subsection shall transmit proof of service to the Judicial  
15 Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana  
16 Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile  
17 transmission or direct electronic input as expeditiously as possible, but no later than  
18 the end of the next business day after making service, exclusive of weekends and  
19 holidays. This proof shall include, at a minimum, the case caption, docket number,  
20 type of order, serving agency and officer, and the date and time service was made.

21 \* \* \*

22 Section 3. R.S. 46:2136.2(A) is hereby amended and reenacted to read as follows:

23 §2136.2. Louisiana Protective Order Registry

24 A. In order to provide a statewide registry for abuse prevention orders to  
25 prevent domestic abuse, dating violence, stalking, and sexual assault and to aid law  
26 enforcement, prosecutors, and the courts in handling such matters, there shall be  
27 created a Louisiana Protective Order Registry administered by the judicial  
28 administrator's office, Louisiana Supreme Court. The judicial administrator's office  
29 shall collect the data transmitted to it from the courts, law enforcement, and private

1 process servers of the state and enter it into the Louisiana Protective Order Registry  
2 as expeditiously as possible.

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 207 Engrossed

2018 Regular Session

Bagley

**Abstract:** Requires those who serve certain temporary protective orders and protective orders to transmit proof of service into the Louisiana Protective Order Registry.

Present law requires a sheriff, or a private person, after serving citation or other process, to return a copy to the clerk of court who issued the citation or process.

Proposed law requires that when the citation or other process is an enumerated temporary restraining order or protective order, the sheriff or private person shall transmit proof of service to the Judicial Administrator's Office for entry into the Louisiana Protective Order Registry by the end of the next business day after making service, exclusive of weekends and holidays. The proof of service shall include, at a minimum, the case caption, docket number, type of order, serving agency and officer, and the date and time service was made.

Present law requires a law enforcement officer serving a previously issued temporary restraining order or ex parte protective order to note service in the police report in order to be deemed sufficient evidence of service of process.

Proposed law adds to present law and requires the law enforcement officer to transmit proof of service to the Judicial Administrator's Office for entry into the Louisiana Protective Order Registry by the end of the next business day after making service, exclusive of weekends and holidays. The proof of service shall include, at a minimum, the case caption, docket number, type of order, serving agency and officer, and the date and time service was made.

(Amends C.C.P. Art. 1292, R.S. 14:79(A)(1)(b) and R.S. 46:2136.2(A); Adds C.C.P. Art. 1293(D))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Require the proof of service to be transmitted by the end of the next business day after making service, exclusive of weekends and holidays, rather than within 24 hours of making service.
2. Remove the requirement that the La. Protective Order Registry develop a form for the proof of service, but retain the requirement that the proof include at least the case caption, docket number, type of order, serving agency and officer, and the date and time service was made.