

2020 Regular Session

HOUSE BILL NO. 212

BY REPRESENTATIVE MARINO

CRIME/BATTERY: Provides relative to domestic abuse

1 AN ACT
2 To amend and reenact R.S. 14:2(B)(48) and (49), 34.9(J), (K), (L), and (M), 35.3(B)(4) and
3 (N), and 37.7(B)(1), R.S. 46:2132(4), and Code of Evidence Article 412.4(D)(3) and
4 (4) and to enact R.S. 14:34.9(N), (O), and (P) and 35.3(O) and (P), relative to
5 domestic abuse; to provide relative to the crimes of domestic abuse battery and
6 battery of a dating partner; to provide specific penalties when the battery is
7 committed with a dangerous weapon and when committed with a dangerous weapon
8 when the offender intentionally inflicts serious bodily injury; to designate as
9 domestic abuse any felony crime of violence committed by one dating partner
10 against the person of another dating partner; to amend the definition of "family
11 member" for the crimes of domestic abuse battery and domestic abuse aggravated
12 assault and for purposes of the Domestic Abuse Assistance Act; to amend the
13 definitions of "family member" and "household member" for purposes of certain
14 evidentiary provisions applicable in domestic abuse cases; and to provide for related
15 matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 14:2(B)(48) and (49), 34.9(J), (K), (L), and (M), 35.3(B)(4) and (N),
18 and 37.7(B)(1) are hereby amended and reenacted and R.S. 14:34.9(N), (O), and (P) and
19 35.3(O) and (P) are hereby enacted to read as follows:

1 §2. Definitions

2 * * *

3 B. In this Code, "crime of violence" means an offense that has, as an
4 element, the use, attempted use, or threatened use of physical force against the
5 person or property of another, and that, by its very nature, involves a substantial risk
6 that physical force against the person or property of another may be used in the
7 course of committing the offense or an offense that involves the possession or use
8 of a dangerous weapon. The following enumerated offenses and attempts to commit
9 any of them are included as "crimes of violence":

10 * * *

11 (48) Domestic abuse battery punishable under R.S. 14:35.3(L), (M)(2), or
12 (N), (O), or (P).

13 (49) Battery of a dating partner punishable under R.S. 14:34.9(L)(2) R.S.
14 14:34.9(L), (M)(2), (N), (O), or (P).

15 * * *

16 §34.9. Battery of a dating partner

17 * * *

18 J. Any felony crime of violence, as defined by R.S. 14:2(B), against a person
19 committed by one dating partner against another dating partner, shall be designated
20 as an act of domestic abuse for consideration in any civil or criminal proceeding.

21 ~~J.K.~~ Notwithstanding any provision of law to the contrary, if the victim of
22 the offense is pregnant and the offender knows that the victim is pregnant at the time
23 of the commission of the offense, the offender, in addition to any other penalties
24 imposed pursuant to this Section, shall be imprisoned at hard labor for not more than
25 three years.

26 ~~K.L.~~ Notwithstanding any provision of law to the contrary, if the offense
27 involves strangulation, the offender, in addition to any other penalties imposed
28 pursuant to this Section, shall be imprisoned at hard labor for not more than three
29 years.

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 212 Reengrossed

2020 Regular Session

Marino

Abstract: Provides relative to the penalties for battery of a dating partner and domestic abuse battery under certain circumstances and designates such offenses as crimes of violence; designates felony crimes of violence committed by one dating partner against another dating partner as domestic abuse; amends the definition of "family member" for certain domestic abuse offenses and for the Domestic Abuse Assistance Act; and amends the definitions of "family member" and "household member" for purposes of certain evidentiary provisions applicable in domestic abuse cases.

Present law provides for the crimes of domestic abuse battery and battery of a dating partner and provides enhanced penalties under certain circumstances including when the victim of the offense is pregnant, when the offense involves strangulation or burning, or when the offender intentionally inflicts serious bodily injury.

Proposed law retains present law and provides the following specific penalties that are applied when the crime domestic abuse battery or battery of a dating partner is committed under the following circumstances:

- (1) When the offense is committed with a dangerous weapon, in addition to any other penalties imposed, the offender shall be imprisoned at hard labor for not more than ten years.
- (2) When the offense is committed with a dangerous weapon and when the offender intentionally inflicts serious bodily injury, in addition to any other penalties imposed, the offender shall be imprisoned at hard labor for not more than 15 years.

Proposed law further adds offenses committed under the proposed law circumstances described above and domestic abuse battery and battery of a dating partner involving strangulation to the present law list of crimes of violence.

Present law provides that any felony crime of violence, as defined by present law, against a person committed by one family member or household member against another family member or household member shall be designated as an act of domestic abuse for consideration in any criminal or civil proceeding.

Proposed law retains present law and provides that such designation shall also apply to any felony crime of violence committed by one dating partner against the person of another dating partner.

For purposes of the crimes of domestic abuse battery and domestic abuse aggravated assault and for purposes of the present law Domestic Abuse Assistance Act, which provides for certain protections to victims of domestic abuse, present law defines "family member" as spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, and foster children.

Proposed law expands the present law definition of "family member" for these purposes to include other ascendants and descendants and the other parent or foster parent of any child or foster child of the offender.

Present law provides that when an accused is charged with a crime involving abusive behavior against a family member, household member, or dating partner evidence of the accused's commission of another crime, wrong, or act involving assaultive behavior against a family member, household member, or dating partner may be admissible and may be considered for its bearing on any matter to which it is relevant unless its probative value is substantially outweighed by other factors including the danger of unfair prejudice, confusion of issues, or misleading the jury.

For these purposes, present law defines both of the following as follows:

- (1) "Family member" as spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, and foster children.
- (2) "Household member" as including any person who has reached the age of majority and who is presently or formerly living in the same residence with the offender as a spouse, whether married or not.

Proposed law expands the present law definition of "family member" for these purposes to include other ascendants and descendants and the other parent or foster parent of any child or foster child of the offender.

Proposed law amends the present law definition of "household member" to include persons who have not reached the age of majority and, with regard to any person presently or formerly living in the same residence with the offender, to include any person who is involved or has been involved in a sexual or intimate relationship with the offender.

(Amends R.S. 14:2(B)(48) and (49), 34.9(J), (K), (L), and (M), 35.3(B)(4) and (N), and 37.7(B)(1), R.S. 46:2132(4), and C.E. Art. 412.4(D)(3) and (4); Adds R.S. 14:34.9(N), (O), and (P) and 35.3(O) and (P))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Make technical corrections.