

ACT No. 101

2020 Regular Session

HOUSE BILL NO. 212

BY REPRESENTATIVE MARINO

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.

1 ~~E.M.~~(1) Notwithstanding any provision of law to the contrary, if the offense
 2 is committed by burning, the offender, in addition to any other penalties imposed
 3 pursuant to this Section, shall be imprisoned at hard labor for not more than three
 4 years.

5 (2) If the burning results in serious bodily injury, the offense shall be
 6 classified as a crime of violence, and the offender, in addition to any other penalties
 7 imposed pursuant to this Section, shall be imprisoned at hard labor for not less than
 8 five nor more than fifty years without benefit of probation, parole, or suspension of
 9 sentence.

10 ~~M.N.~~ Except as provided in Paragraph ~~(L)(2)~~ (M)(2) and Subsection P of this
 11 Section, if the offender intentionally inflicts serious bodily injury, the offender, in
 12 addition to any other penalties imposed pursuant to this Section, shall be imprisoned
 13 at hard labor for not more than eight years.

14 O. Except as provided in Subsection P of this Section, if the intentional use
 15 of force or violence is committed with a dangerous weapon, the offender, in addition
 16 to any other penalties imposed pursuant to this Section, shall be imprisoned at hard
 17 labor for not more than ten years.

18 P. Notwithstanding any provision of law to the contrary, if the intentional
 19 use of force or violence is committed with a dangerous weapon when the offender
 20 intentionally inflicts serious bodily injury, the offender, in addition to other penalties
 21 imposed pursuant to this Section, shall be imprisoned at hard labor for not more than
 22 fifteen years.

23 * * *

24 §35.3. Domestic abuse battery

25 * * *

26 B. For purposes of this Section:

27 * * *

28 (4) "Family member" means spouses, former spouses, parents, children,
 29 stepparents, stepchildren, foster parents, ~~and~~ foster children, other ascendants, and

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 other descendants. "Family member" also means the other parent or foster parent of
2 any child or foster child of the offender.

3 * * *

4 N. Except as provided in Paragraph (M)(2) and Subsection P of this Section,
5 if the offender intentionally inflicts serious bodily injury, the offender, in addition
6 to any other penalties imposed pursuant to this Section, shall be imprisoned at hard
7 labor for not more than eight years.

8 O. Except as provided in Subsection P of this Section, if the intentional use
9 of force or violence is committed with a dangerous weapon, the offender, in addition
10 to any other penalties imposed pursuant to this Section, shall be imprisoned at hard
11 labor for not more than ten years.

12 P. Notwithstanding any provision of law to the contrary, if the intentional
13 use of force or violence is committed with a dangerous weapon when the offender
14 intentionally inflicts serious bodily injury, the offender, in addition to other penalties
15 imposed pursuant to this Section, shall be imprisoned at hard labor for not more than
16 fifteen years.

17 * * *

18 §37.7. Domestic abuse aggravated assault

19 * * *

20 B. For purposes of this Section:

21 (1) "Family member" means spouses, former spouses, parents, children,
22 stepparents, stepchildren, foster parents, ~~and foster children,~~ other ascendants, and
23 other descendants. "Family member" also means the other parent or foster parent of
24 any child or foster child of the offender.

25 * * *

1 Section 2. R.S. 46:2132(4) is hereby amended and reenacted to read as follows:

2 §2132. Definitions

3 As used in this Part:

4 * * *

5 (4) "Family members" means spouses, former spouses, parents and children,
6 stepparents, stepchildren, foster parents, ~~and~~ foster children, other ascendants, and
7 other descendants. "Family member" also means the other parent or foster parent of
8 any child or foster child of the offender. "Household members" means any person
9 presently or formerly living in the same residence with the defendant and who is
10 involved or has been involved in a sexual or intimate relationship with the defendant
11 and who is seeking protection under this Part. "Dating partner" means any person
12 protected from violence under R.S. 46:2151 who is seeking protection under this
13 Part. If a parent or grandparent is being abused by an adult child, adult foster child,
14 or adult grandchild, the provisions of this Part shall apply to any proceeding brought
15 in district court.

16 Section 3. Code of Evidence Article 412.4(D)(3) and (4) is hereby amended and
17 reenacted to read as follows:

18 Art. 412.4. Evidence of similar crimes, wrongs, or acts in domestic abuse cases and
19 cruelty against juveniles cases

20 * * *

21 D. For purposes of this Article:

22 * * *

23 (3) "Family member" means spouses, former spouses, parents and children,
24 stepparents, stepchildren, foster parents, ~~and~~ foster children, other ascendants, and
25 other descendants. "Family member" also means the other parent or foster parent of
26 any child or foster child of the offender.

1 (4) "Household member" means any person ~~having reached the age of~~
2 ~~majority~~ presently or formerly living in the same residence with the offender as a
3 ~~spouse, whether married or not~~ and who is involved or has been involved in a sexual
4 or intimate relationship with the offender, or any child presently or formerly living
5 in the same residence with the offender, or any child of the offender regardless of
6 where the child resides.

7 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____