
DIGEST

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HB 55 Engrossed

2021 Regular Session

Freeman

Abstract: Authorizes use of a written affirmation to support a petition for an ex parte temporary restraining order in domestic abuse cases.

Present law provides that a petition requesting the issuance of an ex parte temporary restraining order pursuant to the Domestic Abuse Assistance Act shall contain an affidavit signed by each petitioner that the facts and circumstances contained in the petition are true and correct to the best knowledge, information, and belief of the petitioner.

Proposed law provides that the petition shall contain a written affirmation, rather than an affidavit, signed and dated by the petitioner before a witness who shall sign and print his name. Proposed law further explicitly provides the same for a complainant seeking protection from domestic abuse, dating violence, stalking, or sexual assault.

Present law (R.S. 14:123) provides that perjury committed in a civil action shall be punished by a fine of not more than \$10,000 or imprisonment at hard labor for not more than five years, or both. Proposed law retains present law.

Present law further provides that any false statement under oath contained in the affidavit accompanying a petition requesting an ex parte temporary restraining order pursuant to the Domestic Abuse Assistance Act shall constitute perjury and shall be punishable by a fine of not more than \$1,000 or by imprisonment with or without hard labor for not more than five years, or both.

Proposed law repeals present law and provides that the affirmation provided by proposed law is subject to perjury pursuant to present law (R.S. 14:123).

Present law provides that a temporary restraining order shall be granted without notice when:

- (1) It clearly appears from specific facts shown by a verified petition or by supporting affidavit that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition.
- (2) The applicant's attorney certifies to the court in writing the efforts which have been made to give the notice or the reasons supporting his claim that notice should not be required.

Proposed law retains present law and provides that a temporary restraining order shall also be granted when an affirmation as provided in proposed law shows the specific facts required by present

law.

(Amends C.C.P. Art. 3603(A), Ch.C. Art. 1568(D), and R.S. 46:2134(D); Adds C.C.P. Art 3603.1(C)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Change the punishment for perjury.
2. Require the petitioner to date the petition.
3. Require the petitioner to sign the petition before a witness who shall sign and print his name.