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## DIGEST

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HB 464 Original

2022 Regular Session

Seabaugh

**Abstract:** Establishes evidentiary and due process standards for permanent injunctions or protective orders that affect firearm transfers.

Present law (C.Cr.P. Art. 1002) provides that a judge shall order the transfer of all firearms and the suspension of a concealed handgun permit of a person when a person has any of the following:

- (1) A conviction of domestic abuse battery (R.S. 14:35.3).
- (2) A second or subsequent conviction of battery of a dating partner (R.S. 14:34.9).
- (3) A conviction of battery of a dating partner that involves strangulation (R.S. 14:34.9(K)).
- (4) A conviction of battery of a dating partner when the offense involves burning (R.S. 14:34.9(L)).
- (5) A conviction of possession of a firearm or carrying a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner (R.S. 14:95.10).
- (6) A conviction of domestic abuse aggravated assault (R.S. 14:37.7).
- (7) A conviction of aggravated assault upon a dating partner (R.S. 14:34.9.1).
- (8) A conviction of any felony crime of violence enumerated or defined in R.S. 14:2(B), for which a person would be prohibited from possessing a firearm pursuant to R.S. 14:95.1, and which has as an element of the crime that the victim was a family member, household member, or dating partner.
- (9) A conviction of any felony crime of violence enumerated or defined in R.S. 14:2(B), for which a person would be prohibited from possessing a firearm pursuant to R.S. 14:95.1, and in which the victim of the crime was determined to be a family member, household member, or dating partner.

Proposed law retains present law.

Present law (C.Cr.P. Art. 1002) provides that a judge, upon issuance of an injunction or order, shall

order the transfer of all firearms and the suspension of a concealed handgun permit of the person who is subject to the injunction or order under any of the following circumstances:

- (1) The issuance of a permanent injunction or a protective order pursuant to a court-approved consent agreement or pursuant to the provisions of present law (R.S. 9:361 et seq., 9:372), (R.S. 46:2136, 2151, or 2173), (Ch.C. Art. 1570), (C.C.P. Art. 3607.1), or (C.Cr.P. Arts. 30, 320, or 871.1)
- (2) The issuance of a Uniform Abuse Prevention Order that includes terms that prohibit the person from possessing a firearm or carrying a concealed weapon.

Proposed law amends present law to provide for standards of proof and due process in a permanent injunction, a protective order, or a Uniform Abuse Prevention Order.

Present law (R.S. 46:2136.3) prohibits the possession of firearms by persons with a protective order issued against them.

Present law provides that any person against whom the court has issued a permanent injunction or a protective order pursuant to a court-approved consent agreement shall be prohibited from possessing a firearm or carrying a concealed weapon for the duration of the injunction or protective order if both of the following occur:

- (1) The permanent injunction or protective order includes a finding that the person subject to the permanent injunction or protective order represents a credible threat to the physical safety of a family member, household member, or dating partner.
- (2) The permanent injunction or protective order informs the person subject to the permanent injunction or protective order that the person is prohibited from possessing a firearm pursuant to the provisions of federal law and present law.

Proposed law amends present law to establish a standard of clear and convincing evidence that the person subject to the permanent injunction or protective order represents a credible threat to the physical safety of a family member, household member, or dating partner.

Proposed law provides for an additional requirement involving notice, an opportunity to be heard, and due process that shall be considered in prohibiting a person from possessing a firearm or carrying a concealed weapon for the duration of the injunction or protective order.

(Amends C.Cr.P. Art. 1002(A)(2) and R.S. 46:2136.3(A))