
DIGEST

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Moreno

HB No. 750

Abstract: Provides relative to restraining orders, protective orders, and injunctions issued in conjunction with domestic abuse cases.

Present law provides that the La. Protective Order Registry is a statewide registry for abuse prevention orders to prevent domestic and dating violence and to aid law enforcement, prosecutors, and the courts in handling cases of domestic violence.

Present law provides that any judge issuing any protective or restraining order shall cause to have prepared a Uniform Abuse Prevention Order, or "Uniform Order", which shall be forwarded to the clerk of court for filing.

Proposed law retains present law but adds the requirement that the judge who prepares the Uniform Abuse Prevention Order shall immediately forward it to the clerk of court for filing on the day that the order was issued.

Present law further provides that the clerk of court for the issuing court shall then transmit the Uniform Abuse Prevention Order to the La. Protective Order Registry by facsimile, mail, or direct electronic input no later than the end of the next business day after the order is filed with the clerk of court.

Proposed law amends present law to provide that the Uniform Abuse Prevention Order shall be provided to the registry by the clerk of the issuing court by facsimile or direct electronic input and further requires the clerk of the issuing court to provide a copy to the chief law enforcement official of the parish where the person or persons protected by the order reside.

Upon receipt of such orders, present law requires Judicial Administrator's Office to enter the information into the registry.

Proposed law requires the Judicial Administrator's Office to immediately enter such orders into the registry.

Present law provides that the crime of violation of protective orders includes the willful disobedience of an order issued to require a defendant to stay away from a specific person or persons as a condition of his release on bond, probation, or parole.

Present law provides increased penalties for violations of protective orders which involve a

battery against the person who is protected by the protective order.

Proposed law amends present law to provide that the increased penalties apply for violations of protective orders that involve a battery or any crime of violence as defined by present law against the person.

Present law provides that law enforcement officers shall use every reasonable means, including but not limited to immediate arrest of the violator, to enforce a preliminary or permanent injunction, a temporary restraining order or ex parte protective order, or a protective order obtained pursuant to present law.

Proposed law retains present law but provides that law enforcement officers shall at a minimum issue a summons to any person in violation of a protective order.

Present law provides for the duties of law enforcement relative to domestic abuse and provides that when the officer has reason to believe that a family or household member or dating partner has been abused, the officer shall immediately use all reasonable means to prevent further abuse.

Proposed law retains present law and provides that whenever a law enforcement officer has reason to believe that a family or household member or dating partner has been abused and the abusing party is in violation of a protective order issued pursuant to present law, the officer shall immediately arrest the abusing party.

Present law provides guidelines for the law enforcement officer to determine which party in a domestic dispute is the predominant aggressor. In making this determination, present law requires law enforcement to consider certain factors.

Proposed law retains present law and requires the law enforcement to also consider the existence of a protective order and further provides that there shall be a rebuttable presumption that the predominant aggressor is the person against whom the order was issued.

Present law provides that when the officer determines that one person was the predominant aggressor in a misdemeanor offense, the officer shall arrest the predominant aggressor if there is reason to believe there is impending danger; otherwise, the officer has discretion in whether to make the arrest.

Proposed law retains present law and requires the officer to also make an arrest if the predominant aggressor is in violation of a protective order.

(Amends R.S. 9:366(A) and 372(B) and (C), R.S. 14:79(B), (C), (E), and (F), R.S. 46:2135(G) and (H), 2136(E), (G), and (H), 2136.2(A) and (D), and 2140, Ch.C. Arts. 1569(H) and (I) and 1570(E), (G), and (H), C.C.P. Art. 3607.1, and C.Cr.P. Arts. 30(B), 327.1, 335.2(C), and 871.1)

Summary of Amendments Adopted by House

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

1. Amended the procedure by which a Uniform Abuse Prevention Order is provided by the judge to the clerk of court for filing and by the clerk of the issuing court to the La. Protective Order Registry and law enforcement.
2. Deleted the change to the crime of violation of protective orders that specifically added a violation of a Uniform Abuse Prevention Order in the La. Protective Order Registry as an element of the offense.
3. Amended the changes to the penalty provisions for violations of protective orders relative to "any act that is enumerated as a crime of violence" to refer to such acts as "any crime of violence as defined by R.S. 14:2(B)".
4. Amended the duty of law enforcement relative to violation of protective orders.
5. Made technical amendments to reflect these changes.