

Regular Session, 2014

HOUSE BILL NO. 1122

BY REPRESENTATIVE SMITH

CIVIL/RESTRAINING ORDER: Provides for the Protection From Stalking Act

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 3607.1 and to enact Chapter 28-C of
3 Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:2171
4 through 2174, relative to stalking; to provide for the Protection From Stalking Act;
5 to provide for summary procedures for obtaining a civil order of protection against
6 stalking; to provide for assistance for victims of stalking; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Civil Procedure Article 3607.1 is hereby amended and reenacted
10 to read as follows:

11 Art. 3607.1. Registry of temporary restraining order, preliminary injunction or
12 permanent injunction, ~~their~~ dissolution or modification

13 A. Immediately upon rendering a decision granting the petitioner a
14 temporary restraining order or a preliminary or permanent injunction prohibiting a
15 person from harming a family or household member or dating partner, or directing
16 a perpetrator of stalking to refrain from abusing, harassing, or interfering with the
17 victim of the stalking when the perpetrator is a stranger to or acquaintance of the
18 victim, the judge shall cause to have prepared a Uniform Abuse Prevention Order,
19 as provided in R.S. 46:2136.2(C), shall sign such order, and shall forward it to the
20 clerk of court for filing, all without delay.

1 B. Where a temporary restraining order, preliminary injunction, or
2 permanent injunction relative to domestic abuse or dating violence, or relative to
3 stalking as provided for in Paragraph A of this Article, is issued, dissolved, or
4 modified, the clerk of court shall transmit the Uniform Abuse Prevention Order to
5 the Louisiana Protective Order Registry, R.S. 46:2136.2(A), by facsimile
6 transmission, mail, or direct electronic input, where available, as expeditiously as
7 possible, but no later than the end of the next business day after the order is filed
8 with the clerk of court.

9 Section 2. Chapter 28-C of Title 46 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 46:2171 through 2174, is hereby enacted to read as follows:

11 CHAPTER 28-C. PROTECTION FROM STALKING ACT

12 §2171. Statement of purpose

13 The legislature hereby finds and declares that there is a present and growing
14 need to develop innovative strategies and services which will reduce and treat the
15 trauma of stranger and acquaintance stalking. The nature of stalking allegations are
16 sometimes not easily substantiated to meet the prosecution's burden of proving the
17 case beyond a reasonable doubt, and victims of stalking are left without protection.
18 Orders of protection are a proven deterrent that can protect victims of stalking from
19 further victimization; however, many victims are forced to pursue civil orders of
20 protection through ordinary process, often unrepresented, rather than through a
21 shortened, summary proceeding. Additionally, victims of stalking are not always
22 aware of the vast resources available to assist them in recovering from the trauma
23 associated with being a victim of stalking. It is the intent of the legislature to provide
24 a civil remedy for victims of stalking which will afford the victim immediate and
25 easily accessible protection.

26 §2172. Definitions

27 As used in this Chapter, "stalking" means any act that would constitute the
28 crime of stalking under R.S. 14:40.2 or cyberstalking under R.S. 14:40.3.

1 §2173. Protection from stalking

2 A victim of stalking by a perpetrator who is a stranger to or acquaintance of
3 the victim shall be eligible to receive all services, benefits, and other forms of
4 assistance provided by Chapter 28 of this Title, provided the services, benefits, and
5 other forms of assistance are applicable based on the status of the relationship
6 between the victim and perpetrator.

7 §2174. Assistance to victims of stalking

8 A person who is engaged in any office, center, or institution referred to as a
9 rape crisis center or battered women's shelter, who has undergone at least forty hours
10 of training and who is engaged in rendering advice, counseling, or assistance to
11 victims may provide the assistance provided for in R.S. 46:2138 to a victim of
12 stalking.

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)]

Smith

HB No. 1122

Abstract: Creates the Protection From Stalking Act and provides for assistance to victims of stalking.

Present law requires a judge to prepare a Uniform Abuse Prevention Order when granting certain restraining orders or injunctions prohibiting a person from harming a family or household member. Further requires the Uniform Abuse Prevention Order to be filed with the Louisiana Protective Order Registry.

Proposed law retains present law and adds orders directing a perpetrator of stalking to refrain from abusing, harassing, or interfering with the victim of the stalking when the perpetrator is a stranger to or acquaintance of the victim.

Proposed law creates the Protection From Stalking Act and designates victims of stalking committed by a stranger or acquaintance as a person eligible to receive all applicable services, benefits, and other forms of assistance provided by the Protection From Family Violence Act, including a summary proceeding for obtaining a civil order of protection, maintenance of orders of protection against stalking in the Louisiana Protective Order Registry, and assistance in completing the forms for application for the protective order.

(Amends C.C.P. Art. 3607.1; Adds R.S. 46:2171-2174)