

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 Articles 3603.1(C)(1) and 3607.1, R.S.  
3 46:2136.2(B), and R.S. 14:79(A)(1)(a) and (E) and to enact Chapter 28-C of Title 46  
4 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:2171 through  
5 2174, relative to stalking; to provide for the Protection From Stalking Act; to provide  
6 for summary procedures for obtaining a civil order of protection against stalking; to  
7 provide for assistance for victims of stalking; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Civil Procedure Articles 3603.1(C)(1) and 3607.1 are hereby  
10 amended and reenacted to read as follows:

11 Art. 3603.1. Governing provisions for issuance of protective orders; grounds;  
12 notice; court-appointed counsel

13 \* \* \*

14 C.(1) A complainant seeking protection from domestic abuse, dating  
15 violence, stalking, or sexual assault shall not be required to prepay or be cast  
16 with court costs or costs of service of subpoena for the issuance or  
17 dissolution of a temporary restraining order, preliminary or permanent  
18 injunction, or protective order ~~pursuant to this Article~~ , or the dismissal of a  
19 petition for such, and the clerk of court shall immediately file and process the

1 order issued ~~pursuant to this Article~~ regardless of the ability of the plaintiff  
2 to pay court costs.

3 \* \* \*

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

6 A. Immediately upon rendering a decision granting the petitioner a  
7 temporary restraining order or a preliminary or permanent injunction prohibiting a  
8 person from harming a family or household member or dating partner, or directing  
9 a person accused of stalking to refrain from abusing, harassing, or interfering with  
10 the victim of the stalking when the parties are strangers or acquaintances, the judge  
11 shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S.  
12 46:2136.2(C), shall sign such order, and shall forward it to the clerk of court for  
13 filing, all without delay.

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

22 Section 2. R.S. 46:2136.2(B) is hereby amended and reenacted and Chapter 28-C of  
23 Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:2171 through 2174,  
24 is hereby enacted to read as follows:

25 §2136.2. Louisiana Protective Order Registry

26 \* \* \*

27 B. The Louisiana Protective Order Registry encompasses temporary  
28 restraining orders, protective orders, preliminary injunctions, permanent injunctions,  
29 and court-approved consent agreements resulting from actions brought pursuant to

1 R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 9:361 et seq., R.S.  
 2 9:372, Children's Code Article 1564 et seq., Code of Civil Procedure Article 3607.1,  
 3 or peace bonds pursuant to Code of Criminal Procedure Article 30(B), or as part of  
 4 the disposition, sentence, or bail condition of a criminal matter pursuant to Code of  
 5 Criminal Procedure Article 327.1 or Article 871.1 as long as such order is issued for  
 6 the purpose of preventing violent or threatening acts or harassment against, contact  
 7 or communication with, or physical proximity to, another person to prevent domestic  
 8 abuse, stalking, or dating violence.

9 \* \* \*

10 CHAPTER 28-C. PROTECTION FROM STALKING ACT

11 §2171. Statement of purpose

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

25 §2171.1. Jurisdiction

26 Any district court in the state of Louisiana which is empowered to hear civil  
 27 matters shall have jurisdiction over proceedings appropriate to it under this Chapter.

1        §2172. Definitions

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

4        §2173. Protection from stalking

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

10       §2174. Assistance to victims of stalking

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

16       Section 3. R.S. 14:79(A)(1)(a) and (E) are hereby amended and reenacted to read  
17 as follows:

## 18       §79. Violation of protective orders

19               A.(1)(a) Violation of protective orders is the willful disobedience of a  
20       preliminary or permanent injunction or protective order issued pursuant to R.S. 9:361  
21       et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq.,  
22       Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and  
23       3607.1, or Code of Criminal Procedure Articles, 327.1, 335.1, and 871.1 after a  
24       contradictory court hearing, or the willful disobedience of a temporary restraining  
25       order or any ex parte protective order issued pursuant to R.S. 9:361 et seq., R.S.  
26       9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., criminal stay-away  
27       orders as provided for in Code of Criminal Procedure Articles 327.1, and 335.1,  
28       Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 and

1 3607.1, if the defendant has been given notice of the temporary restraining order or  
2 ex parte protective order by service of process as required by law.

3 \* \* \*

4 E. Law enforcement officers shall use every reasonable means, including but  
5 not limited to immediate arrest of the violator, to enforce a preliminary or permanent  
6 injunction or protective order obtained pursuant to R.S. 9:361, R.S. 9:372, R.S.  
7 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code Article 1564 et  
8 seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal  
9 Procedure Articles 327.1, 335.1 and 871.1 after a contradictory court hearing, or to  
10 enforce a temporary restraining order or ex parte protective order issued pursuant to  
11 R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq.,  
12 Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and  
13 3607.1, or Code of Criminal Procedure Articles 327.1 and 335.1 if the defendant has  
14 been given notice of the temporary restraining order or ex parte protective order by  
15 service of process as required by law.

16 \* \* \*

---

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 relieves complainants seeking protection from certain acts of abuse from paying certain court costs associated with obtaining an order of protection.

Proposed law retains present law and adds a complainant seeking protection from dating violence to the enumerated list.

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 person accused of stalking to refrain from abusing, harassing, or interfering with the victim of the stalking when the parties are strangers or acquaintances.

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.

Present law establishes the crime of violation of a protective order and enumerates specific orders of protection for which a person against whom the order is directed may be prosecuted for violating the order.

Proposed law adds violation of a protective order issued pursuant to proposed law as a crime under present law.

(Amends C.C.P. Arts. 3603.1(C)(1) and 3607.1, R.S. 46:2136.2(B), and R.S. 14:79(A)(1)(a) and (E); Adds R.S. 46:2171-2174)

#### Summary of Amendments Adopted by House

##### House Floor Amendments to the engrossed bill.

1. Added proposed law to the list of orders of protection to be entered into the Louisiana Protective Order Registry.
2. Added a complainant seeking protection from dating violence to the list of orders of protection for which a complainant is not required to pay certain court costs.
3. Added proposed law to the list of orders of protection enumerated in the crime of violation of a protective order for which a person against whom an order is directed may be prosecuted for violating the order.