

Regular Session, 2014

HOUSE BILL NO. 1122

BY REPRESENTATIVE SMITH

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 with  
16 court costs or costs of service of subpoena for the issuance or dissolution of a  
17 temporary restraining order, preliminary or permanent injunction, or protective order  
18 ~~pursuant to this Article~~, or the dismissal of a petition for such, and the clerk of court  
19 shall immediately file and process the order issued ~~pursuant to this Article~~ regardless  
20 of the ability of the plaintiff to pay court costs.

21 \* \* \*

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

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

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

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

22 §2136.2. Louisiana Protective Order Registry

23 \* \* \*

24 B. The Louisiana Protective Order Registry encompasses temporary  
25 restraining orders, protective orders, preliminary injunctions, permanent injunctions,  
26 and court-approved consent agreements resulting from actions brought pursuant to  
27 R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 9:361 et seq., R.S.  
28 9:372, Children's Code Article 1564 et seq., Code of Civil Procedure Article 3607.1,  
29 or peace bonds pursuant to Code of Criminal Procedure Article 30(B), or as part of  
30 the disposition, sentence, or bail condition of a criminal matter pursuant to Code of

1 Criminal Procedure Article 327.1 or Article 871.1 as long as such order is issued for  
2 the purpose of preventing violent or threatening acts or harassment against, contact  
3 or communication with, or physical proximity to, another person to prevent domestic  
4 abuse, stalking, or dating violence.

5 \* \* \*

6 CHAPTER 28-C. PROTECTION FROM STALKING ACT

7 §2171. Statement of purpose

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

21 §2171.1. Jurisdiction

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

24 §2172. Definitions

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

27 §2173. Protection from stalking

28 A victim of stalking by a perpetrator who is a stranger to or acquaintance of  
29 the victim shall be eligible to receive all services, benefits, and other forms of  
30 assistance provided by Chapter 28 of this Title, provided the services, benefits, and

1            other forms of assistance are applicable based on the status of the relationship  
 2            between the victim and perpetrator.

3            §2174. Assistance to victims of stalking

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

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

11          §79. Violation of protective orders

12                  A.(1)(a) Violation of protective orders is the willful disobedience of a  
 13          preliminary or permanent injunction or protective order issued pursuant to R.S. 9:361  
 14          et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq.,  
 15          Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and  
 16          3607.1, or Code of Criminal Procedure Articles; 327.1, 335.1, and 871.1 after a  
 17          contradictory court hearing, or the willful disobedience of a temporary restraining  
 18          order or any ex parte protective order issued pursuant to R.S. 9:361 et seq., R.S.  
 19          9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., criminal stay-away  
 20          orders as provided for in Code of Criminal Procedure Articles 327.1, and 335.1,  
 21          Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 and  
 22          3607.1, if the defendant has been given notice of the temporary restraining order or  
 23          ex parte protective order by service of process as required by law.

24    \*            \*            \*

25                  E. Law enforcement officers shall use every reasonable means, including but  
 26          not limited to immediate arrest of the violator, to enforce a preliminary or permanent  
 27          injunction or protective order obtained pursuant to R.S. 9:361, R.S. 9:372, R.S.  
 28          46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code Article 1564 et  
 29          seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal  
 30          Procedure Articles 327.1, 335.1, and 871.1 after a contradictory court hearing, or to

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 enforce a temporary restraining order or ex parte protective order issued pursuant to  
2 R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq.,  
3 Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and  
4 3607.1, or Code of Criminal Procedure Articles 327.1 and 335.1 if the defendant has  
5 been given notice of the temporary restraining order or ex parte protective order by  
6 service of process as required by law.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_