

ACT No. 355

Regular Session, 2014

HOUSE BILL NO. 1122

BY REPRESENTATIVE SMITH

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

* * *

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

* * *

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.

