

2017 Regular Session

HOUSE BILL NO. 223

BY REPRESENTATIVE MORENO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DOMESTIC ABUSE: Expands the application of domestic abuse battery, domestic abuse aggravated assault, and other provisions of law regarding domestic abuse to dating partners

1 AN ACT

2 To amend and reenact R.S.14:35.3(A), (B)(4), (5), (6), and (7), (G)(1), and (J) and 37.7(A)

3 and (B), R.S. 15:590(8), R.S. 46:2136.3(A)(introductory paragraph) and (1), Code

4 of Evidence Article 412.4(A) and (D)(2) and (3), and Code of Criminal Procedure

5 Article 387(A)(introductory paragraph) and to enact R.S. 14:35.3(B)(8) and Code of

6 Evidence Article 412.4(D)(4), relative to domestic abuse; to provide relative to acts

7 of abuse involving dating partners; to expand the application of the crimes of

8 domestic abuse battery and domestic abuse aggravated assault to dating partners; to

9 add offenses of abuse involving dating partners to the types of offenses for which

10 certain information is obtained upon arrest and conviction; to provide relative to the

11 possession of firearms by persons subject to a permanent injunction or protective

12 order for acts of abuse involving dating partners; to provide relative to admissibility

13 of evidence of similar crimes, wrongs, or acts in cases of abuse involving dating

14 partners; to provide relative to the information required when instituting the

15 prosecution for an offense involving abuse against a dating partner; to provide

16 definitions; and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S.14:35.3(A), (B)(4), (5), (6), and (7), (G)(1), and (J) and 37.7(A) and  
2 (B) are hereby amended and reenacted and R.S. 14:35.3(B)(8) is hereby enacted to read as  
3 follows:

4 §35.3. Domestic abuse battery

5 A. Domestic abuse battery is the intentional use of force or violence  
6 committed by one household member, ~~or family member,~~ or dating partner upon the  
7 person of another household member, ~~or family member,~~ or dating partner.

8 B. For purposes of this Section:

9 \* \* \*

10 (4) "Dating partner" has the same meaning as defined in R.S. 46:2151.

11 ~~(4)~~(5) "Family member" means spouses, former spouses, parents, children,  
12 stepparents, stepchildren, foster parents, and foster children.

13 ~~(5)~~(6) "Household member" means any person of the opposite sex presently  
14 or formerly living in the same residence with the offender as a spouse, whether  
15 married or not, or any child presently or formerly living in the same residence with  
16 the offender, or any child of the offender regardless of where the child resides.

17 ~~(6)~~(7) "Serious bodily injury" means bodily injury that involves  
18 unconsciousness, extreme physical pain, or protracted and obvious disfigurement,  
19 or protracted loss or impairment of the function of a bodily member, organ, or  
20 mental faculty, or a substantial risk of death.

21 ~~(7)~~(8) "Strangulation" means intentionally impeding the normal breathing  
22 or circulation of the blood by applying pressure on the throat or neck or by blocking  
23 the nose or mouth of the victim.

24 \* \* \*

25 G.(1) For purposes of determining whether an offender has a prior  
26 conviction for violation of this Section, a conviction under this Section, or a  
27 conviction under the laws of any state or an ordinance of a municipality, town, or  
28 similar political subdivision of another state which prohibits the intentional use of  
29 force or violence committed by one household member, ~~or family member,~~ or dating

1 partner upon another household member, ~~or~~ family member, or dating partner shall  
2 constitute a prior conviction.

3 \* \* \*

4 J. Any crime of violence, as defined in R.S. 14:2(B), against a person  
5 committed by one household member, family member, or dating partner against  
6 another household member, family member, or dating partner shall be designated as  
7 an act of domestic abuse for consideration in any civil or criminal proceeding.

8 \* \* \*

9 §37.7. Domestic abuse aggravated assault

10 A. Domestic abuse aggravated assault is an assault with a dangerous weapon  
11 committed by one household member, ~~or~~ family member, or dating partner upon  
12 another household member, ~~or~~ family member, or dating partner.

13 B. For purposes of this Section:

14 (1) "Dating partner" has the same meaning as defined in R.S. 46:2151.

15 ~~(1)~~(2) "Family member" means spouses, former spouses, parents, children,  
16 stepparents, stepchildren, foster parents, and foster children.

17 ~~(2)~~(3) "Household member" means any person of the opposite sex presently  
18 or formerly living in the same residence with the offender as a spouse, whether  
19 married or not, or any child presently or formerly living in the same residence with  
20 the offender, or any child of the offender regardless of where the child resides.

21 \* \* \*

22 Section 2. R.S. 15:590(8) is hereby amended and reenacted to read as follows:

23 §590. Obtaining and filing fingerprint and identification data

24 The bureau shall obtain and file the name, fingerprints, description,  
25 photographs, and any other pertinent identifying data as the deputy secretary deems  
26 necessary, of any person who meets any of the following:

27 \* \* \*

28 (8) Has been arrested, or has been issued a summons and subsequently  
29 convicted, for a violation of any state law or local ordinance that prohibits the use

1 of force or a deadly weapon against any family member, household member, or  
2 dating partner as those terms are defined by R.S. 14:35.3 ~~or any household member~~  
3 ~~as defined by R.S. 14:35.3.~~

4 Section 3. R.S. 46:2136.3(A)(introductory paragraph) and (1) is hereby amended and  
5 reenacted to read as follows:

6 §2136.3. Prohibition on the possession of firearms by a person against whom a  
7 protective order is issued

8 A. Any person against whom the court has issued a permanent injunction or  
9 a protective order pursuant to a court-approved consent agreement or pursuant to the  
10 provisions of R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2136, 2151, or 2173, Children's  
11 Code Article 1570, Code of Civil Procedure Article 3607.1, or Code of Criminal  
12 Procedure Articles 30, ~~327.1, 335.1, 335.2~~ 320, or 871.1 shall be prohibited from  
13 possessing a firearm for the duration of the injunction or protective order if both of  
14 the following occur:

15 (1) The permanent injunction or protective order includes a finding that the  
16 person subject to the permanent injunction or protective order represents a credible  
17 threat to the physical safety of a family member, ~~or household member,~~ or dating  
18 partner.

19 \* \* \*

20 Section 4. Code of Evidence Article 412.4(A) and (D)(2) and (3) are hereby  
21 amended and reenacted and Code of Evidence Article 412.4(D)(4) is hereby enacted to read  
22 as follows:

23 Art. 412.4. Evidence of similar crimes, wrongs, or acts in domestic abuse cases and  
24 cruelty against juveniles cases

25 A. When an accused is charged with a crime involving abusive behavior  
26 against a family member, household member, or dating partner or with acts which  
27 constitute cruelty involving a victim who was under the age of seventeen at the time  
28 of the offense, evidence of the accused's commission of another crime, wrong, or act  
29 involving assaultive behavior against a family member, ~~or household member,~~ or

1 dating partner or acts which constitute cruelty involving a victim who was under the  
2 age of seventeen at the time of the offense, may be admissible and may be  
3 considered for its bearing on any matter to which it is relevant, subject to the  
4 balancing test provided in Article 403.

5 \* \* \*

6 D. For purposes of this Article:

7 \* \* \*

8 (2) "Dating partner" has the same meaning as defined in R.S. 46:2151.

9 ~~(2)~~(3) "Family member" means spouses, former spouses, parents and  
10 children, stepparents, stepchildren, foster parents, and foster children.

11 ~~(3)~~(4) "Household member" means any person having reached the age of  
12 majority presently or formerly living in the same residence with the offender as a  
13 spouse, whether married or not, or any child presently or formerly living in the same  
14 residence with the offender, or any child of the offender regardless of where the child  
15 resides.

16 Section 5. Code of Criminal Procedure Article 387(A)(introductory paragraph) is  
17 hereby amended and reenacted to read as follows:

18 Art. 387. Additional information required when prosecuting certain offenses

19 A. When instituting the prosecution of an offense involving a violation of  
20 any state law or local ordinance that prohibits the use of force or a deadly weapon  
21 against any family member, household member, or dating partner as those terms are  
22 ~~defined by R.S. 14:35.3 or any household member as defined by R.S. 14:35.3,~~ the  
23 district attorney, or city prosecutor for criminal prosecutions in city court, shall  
24 include the following information in the indictment, information, or affidavit:

25 \* \* \*

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**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)]

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HB 223 Original

2017 Regular Session

Moreno

**Abstract:** Expands the application of domestic abuse battery, domestic abuse aggravated assault, and other provisions of law regarding domestic abuse to dating partners.

Present law provides for the following:

- (1) The crimes of domestic abuse and domestic abuse aggravated assault for cases involving the use of force or violence or assault with a dangerous weapon by one household member or family member against another household member or family member.
- (2) Requires the La. Bureau of Criminal Identification and Information to obtain and file the name, fingerprints, description, photographs, and other pertinent identifying data of any person who has been arrested, or has been issued a summons and subsequently convicted, for a violation of any state law or ordinance that prohibits the use of force or a deadly weapon against any family member or household member.
- (3) Prohibits any person against whom the court has issued a permanent injunction or a protective order relative to domestic abuse from possessing a firearm for the duration of the injunction or protective order if the injunction or order includes a finding that the person represents a credible threat to the physical safety of a family member or household member and the injunction or order informs the person that he is prohibited from possessing a firearm pursuant to both state and federal law.
- (4) For crimes in which the accused is charged with a crime involving abusive behavior against a family member or household member, provides for the admissibility of evidence of the accused's commission of another crime, wrong, or act involving assaultive behavior against a family member or household member unless the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, or waste of time.
- (5) Requires the district attorney to include certain information in the indictment, information, or affidavit when instituting the prosecution for an offense involving a violation of any state law or local ordinance that prohibits the use of force or a deadly weapon against a family member or household member.
- (6) For all of these purposes, present law provides for the following definitions:
  - (a) "Household member" means any person of the opposite sex presently or formerly living in the same residence with the offender as a spouse, whether married or not, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.
  - (b) "Family member" means spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, and foster children.

- (7) Defines "dating partner", for purposes of the present law Protection from Dating Violence Act (R.S. 46:2151 et seq.), as any person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Proposed law expands the applicability of these provisions of present law to cases of abuse involving "dating partners" as that term is defined by present law.

(Amends R.S.14:35.3(A), (B)(4), (5), (6), and (7), (G)(1), and (J) and 37.7(A) and (B), R.S. 15:590(8), R.S. 46:2136.3(A)(intro. para.) and (1), C.E. Art. 412.4(A) and (D)(2) and (3), and C.Cr.P. Art. 387(A)(intro. para.); Adds R.S. 14:35.3(B)(8) and C.E. Art. 412.4(D)(4))