

RÉSUMÉ DIGEST

Act 242 (SB 36)

2015 Regular Session

Amedee

Prior law (Protection from Family Violence Act) provided certain services, benefits, and other forms of assistance to victims of domestic abuse, dating violence, human trafficking, and stalking. These services, benefits, and assistance included but were not limited to: petition for a temporary restraining order or protective order, relief from paying certain court costs associated with obtaining these orders of protection, filing of the order of protection in the La. Protective Order Registry, prohibition of possession of firearms by certain persons subject to the order of protection, and assistance by the clerk of court and other advocates in making applications for the orders of protection.

New law creates the Protection for Victims of Sexual Assault Act within the prior law Protection from Family Violence Act and does all of the following:

- (1) Provides that victims of "sexual assault", defined by new law as any act of obscenity and any act constituting an offense for which a person is required to register as a sex offender, are eligible to receive all services, benefits, and other forms of assistance provided to victims of domestic abuse, dating violence, human trafficking, and stalking under the Protection from Family Violence Act.
- (2) Provides that a showing by a sexual assault victim that he or she is or has been a victim of sexual assault shall constitute good cause for purposes of obtaining a temporary restraining order in an ex parte proceeding.
- (3) Authorizes "sexual assault advocates", as defined by new law, to provide clerical assistance to sexual assault victims in making an application for a protective order.
- (4) Provides relative to the disclosure of privileged communications and records relating to privileged communications maintained by a sexual assault center, and defines "privileged communications" and "sexual assault center".

In determining the conditions of release for an offense committed against the defendant's family member, household member, or dating partner, or for the offenses of domestic abuse battery or stalking, prior law (C.Cr.P. Art. 335.1) requires the court to order as a condition of bail that the defendant refrain from going near or contacting the victim if the court determines that the defendant poses a threat or danger to the victim.

Prior law (C.Cr.P. Art. 327.1) provided that if an order issued against a defendant as part of a bail restriction for the purpose of preventing domestic abuse, stalking, or dating violence, the judge shall prepare a Uniform Abuse Prevention Order and the clerk of the issuing court shall transmit the order to the La. Protective Order Registry.

New law expands prior law (C.Cr.P. Articles 327.1 and 335.1) to apply to orders issued against a defendant as part of a bail restriction for the purpose of preventing sexual assault.

Prior law (C.Cr.P. Art. 335.1) provided that if an order is issued against a defendant as part of a bail restriction for the purpose of preventing domestic abuse, stalking, or dating violence, the court shall order that the defendant be prevented from possessing a firearm for the duration of the order.

New law retains prior law and provides that if an order is issued against a defendant as part of a bail restriction for the purpose of preventing sexual assault, the court may order that the defendant be prevented from possessing a firearm for the duration of the order.

Prior law (R.S. 14:79) provided that the crime of violation of protective orders includes the willful disobedience of an order issued pursuant to certain provisions of prior law to require a defendant to stay away from a specific person or persons as a condition of his release on bond, probation, or parole. Further provides for the duties of law enforcement relative to the enforcement of this prior law provision.

New law expands prior law to apply to violations of temporary restraining orders or protective orders issued pursuant to the new law Protection for Victims of Sexual Assault Act.

Prior law authorized a hearing officer to hear and make recommendations on all protective orders filed in accordance with the Protection from Family Violence Act (R.S. 46:2131 et seq. and R.S. 46:2151 et seq.) and other provisions of prior law.

New law expands the hearing officer's authority to hear and make recommendations on all protective orders filed in accordance with the prior law Protection from Stalking Act (R.S. 46:2171 et seq.) and new law Protection for Victims of Sexual Assault Act (R.S. 46:2181 et seq.).

Effective August 1, 2015.

(Amends C.Cr.P. Art. 327.1 and 335.1(A)(1)(a) and (c), R.S. 14:79(A)(1)(a) and (E), R.S. 44:4.1(B)(39), R.S. 46:236.5(C)(3)(k) and 2136.2(A) and (B); adds R.S. 46:2181-2188)