

Regular Session, 2011

HOUSE BILL NO. 126

BY REPRESENTATIVE DANAHA Y

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

CRIME/BATTERY: Amends domestic abuse battery provisions

1 AN ACT

2 To amend and reenact R.S. 14:35.3(A), (B)(2), (G)(1), and (J), relative to domestic abuse
3 battery; to provide for the elements of the crime of domestic abuse battery; to include
4 family members living in the same residence as the offender; to provide for
5 definitions; to provide for prior convictions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:35.3(A), (B)(2), (G)(1), and (J) are hereby amended and reenacted
8 to read as follows:

9 §35.3. Domestic abuse battery

10 A. Domestic abuse battery is the intentional use of force or violence
11 ~~committed by one household member upon the person of another household member.~~
12 when the victim is any of the following:

13 (1) A family member of the offender living in the same residence as the
14 offender.

15 (2) Any person presently living in the same residence with the offender as
16 a spouse, whether married or not.

17 (3) Any person who has lived in the same residence as the offender as a
18 spouse, whether married or not, within five years of the occurrence of the domestic
19 abuse battery.

20 (4) Any child presently living in the same residence as the offender.

1 (5) Any child who has lived in the same residence as the offender within five
2 years of the occurrence of the domestic abuse battery.

3 B. For purposes of this Section:

4 * * *

5 ~~(2) "Household member" means any person of the opposite sex presently~~
6 ~~living in the same residence or living in the same residence within five years of the~~
7 ~~occurrence of the domestic abuse battery with the defendant as a spouse, whether~~
8 ~~married or not, or any child presently living in the same residence or living in the~~
9 ~~same residence within five years immediately prior to the occurrence of domestic~~
10 ~~abuse battery, or any child of the offender regardless of where the child resides.~~

11 (2) "Family member" means spouses, former spouses, parents, children,
12 grandparents, grandchildren, stepparents, stepchildren, foster parents, and foster
13 children.

14 * * *

15 G.(1) For purposes of determining whether a defendant has a prior
16 conviction for violation of this Section, a conviction under this Section, or a
17 conviction under the laws of any state or an ordinance of a municipality, town, or
18 similar political subdivision of this state or another state which ~~prohibits the~~
19 ~~intentional use of force or violence committed by one household member upon~~
20 ~~another household member of the opposite sex presently or formerly living in the~~
21 ~~same residence with the defendant as a spouse, whether married or not, is equivalent~~
22 to the offense provided for in this Section, shall constitute a prior conviction.

23 * * *

24 J. Any crime of violence, as defined in R.S. 14:2(B), ~~against a person~~
25 ~~committed by one household member against another household member~~ committed
26 against any person provided for in Subsection A of this Section, shall be designated
27 as an act of domestic violence.

28 * * *

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)]

Danahay

HB No. 126

Abstract: Amends the crime of domestic abuse battery to include family members.

Present law provides that domestic abuse battery is the intentional use of force or violence committed by one household member against the person of another household member.

Present law defines "household member".

Proposed law amends present law to include family members who are living in the same residence as the offender.

Proposed law deletes the definition of "household member" and defines "family member".

Present law provides that for purposes of determining whether a defendant has a prior conviction, the following shall constitute a prior conviction: (1) a conviction under present law, or (2) a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which is the equivalent to the offense provided for in present law.

Proposed law adds convictions of local ordinances of this state to present law.

Present law provides that any crime of violence committed by one household member against another household member shall be designated as an act of domestic violence.

Proposed law amends present law to include family members who are living in the same residence as the offender.

(Amends R.S. 14:35.3(A), (B)(2), (G)(1), and (J))