

2021 Regular Session

HOUSE BILL NO. 159

BY REPRESENTATIVES WHITE, FREEMAN, GREEN, LANDRY, AND MOORE AND
SENATORS JACKSON, MIZELL, AND PETERSON

(On Recommendation of the Louisiana State Law Institute)

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

DOMESTIC ABUSE: Provides for the definition of domestic abuse

AN ACT

To amend and reenact Civil Code Articles 103(4) and (5), 112(B)(9), 134, 136(A), the heading of Title VI of Book I of the Civil Code, and Civil Code Articles 2315.8(A) and 2362.1(B), Code of Civil Procedure Articles 891(B), 3603.1(A) and (C)(1), 3604(C)(1), 3607.1, 3610, and 3945(G), Children's Code Articles 652(E)(2), 1564, 1565, 1566(C), 1567(A)(3) and (B), 1568(A)(1), (3), and (4) and (C), 1569(A)(introductory paragraph), (B), and (D), 1570(A)(introductory paragraph), 1570.1(A), and 1573(introductory paragraph) and (4), Code of Evidence Article 412.5(A), Code of Criminal Procedure Articles 313(A)(2), 320(G)(1), 321(C)(19), 893(A)(2), 895(M)(1), 899.2(D)(5) and (6), 900(A)(6)(d)(iii), the heading of Title XXXV of the Code of Criminal Procedure, and Code of Criminal Procedure Articles 1001(1), (2), and (4), and 1002(A)(2)(a), R.S. 9:314, 345(B), 355.2(D)(2), 358.2, 358.3(B)(8), 359.13, the heading of Part IV of Chapter 1 of Code Title V of Title 9 of the Louisiana Revised Statutes of 1950, and R.S. 9:361, 362(1), (3)(c), (4), (5), (6), and (7), 363, 364, 365, 366(A), 367, 369, 372(A) and (C), 2603(B)(4)(a), 2800.9(A), 3261.1(B)(2) and (C)(2), and 4103(B)(1), R.S. 13:621.21(B)(2) and (C)(2), 621.22(B)(3), 721(E)(2)(I), 1802(4), 1819(B)(1), 1821(A)(2), 1830(B)(3), 1852(4), 1856(4) and (5), 1857(A)(4), 1858(B), 1859(D), 2106(B), and 5304(B)(10)(introductory paragraph) and (b), R.S. 14:79(A)(1)(a) and (E), R.S. 15:257.1(C)(1)(c), 574.7(C)(2)(a)(x) and (4)(e) and (f), 574.9(H)(2)(c), 587.8(A) and (B)(3)(introductory paragraph), (a), (b), and (d) and (7), R.S. 17:7.2(A)(6), R.S. 22:1063(A)(1)(g) and 1078(A), R.S. 33:9701(C)(2), R.S. 37:2554(B)(2)(b), R.S.

39:1619(A)(3)(introductory paragraph), (a), (f), and (g), R.S. 40:506(D), 1379.3.2(A), 2405.8(E)(1)(introductory paragraph), (a), and (g) and (2) and (I)(3)(a)(i) and (b), and 2533(C)(1), R.S. 44:3(A)(6) and (J)(3), and R.S. 46:52.1(F)(3)(a)(v), 236.5(C)(1) and (3)(k), 236.10(C)(2)(d)(i), 1842(15)(d), 1844(C)(2), 1845(C)(2), 1846(A) and (C), 1861(A)(1)(a), 2131, 2132(3) and (4), 2133(B)(3) and (D), 2134(A)(1), (2), and (3) and (C), 2135(A)(introductory paragraph), (B), and (D), 2136(A)(introductory paragraph), 2136.1(A), 2136.2(A) and (B), 2136.3(A)(introductory paragraph), 2138(C), 2140(A), (B)(introductory paragraph) and (4), (C)(1), (2)(introductory paragraph), (e), and (g), and (3)(b), and 2143(A), (B), and (C), to enact Civil Code Articles 136(D)(6) and 162, and to repeal R.S. 9:341 and R.S. 46:1844(W)(5)(d), 2121.1, 2140(C)(4), and 2151, relative to domestic abuse; to provide for a civil definition of domestic abuse; to provide consistent terminology; to provide for cross references; to provide for the determination of support; to provide for consideration of factors in determining the best interest of a child; to provide for the definition of dating partner; to provide for the Post-Separation Domestic Abuse Relief Act; to provide for child custody and visitation when domestic abuse has occurred; to provide for court costs and attorney fees; to provide for the Domestic Abuse Assistance Act; to provide for the Protection From Family Violence Act; to repeal the Protection From Dating Violence Act; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Articles 103(4) and (5), 112(B)(9), 134, 136(A), the heading of Title VI of Book I of the Civil Code, and Civil Code Articles 2315.8(A) and 2362.1(B) are hereby amended and reenacted, and Civil Code Articles 136(D)(6) and 162 are hereby enacted, to read as follows:

Art. 103. Judgment of divorce; other grounds

Except in the case of a covenant marriage, a divorce shall be granted on the petition of a spouse upon proof that:

* * *

(4) During the marriage, the other spouse ~~physically or sexually abused the spouse seeking divorce or a child of one of the spouses, regardless of whether the other spouse was prosecuted for the act of abuse~~ committed domestic abuse as defined in Article 162.

(5) After a contradictory hearing or consent decree, a protective order or an injunction was issued during the marriage against the other spouse to protect the spouse seeking the divorce or a child of one of the spouses from domestic abuse.

Revision Comments - 2021

Physical and sexual abuse were formerly listed expressly. In this revision, express reference to these forms of abuse has been deleted, but physical and sexual abuse continue to meet the definition of domestic abuse in Article 162.

* * *

Art. 112. Determination of final periodic support

* * *

B. The court shall consider all relevant factors in determining the amount and duration of final support, including:

* * *

(9) The existence, effect, and duration of any act of domestic abuse committed by the other spouse upon the claimant or a child of one of the spouses, regardless of whether the other spouse was prosecuted for the act of domestic violence during the marriage.

* * *

Art. 134. Factors in determining child's best interest

A. Except as provided in Paragraph B of this Article, the court shall consider all relevant factors in determining the best interest of the child, including:

(1) The potential for the child to be abused, ~~as defined by Children's Code Article 603, which shall be the primary consideration~~ or to be exposed to domestic abuse.

(2) The existence, effect, and duration of any act of domestic abuse that may
affect the child.

1 ~~(2)~~(3) The love, affection, and other emotional ties between each party and
2 the child.

3 ~~(3)~~(4) The capacity and disposition of each party to give the child love,
4 affection, and spiritual guidance and to continue the education and rearing of the
5 child.

6 ~~(4)~~(5) The capacity and disposition of each party to provide the child with
7 food, clothing, medical care, and other material needs.

8 ~~(5)~~(6) The length of time the child has lived in a stable, adequate
9 environment, and the desirability of maintaining continuity of that environment.

10 ~~(6)~~(7) The permanence, as a family unit, of the existing or proposed
11 custodial home or homes.

12 ~~(7)~~(8) The moral fitness of each party, insofar as it affects the welfare of the
13 child.

14 ~~(8)~~(9) The history of substance abuse, violence, or criminal activity of any
15 party.

16 ~~(9)~~(10) The mental and physical health of each party. ~~Evidence that an~~
17 ~~abused parent suffers from the effects of past abuse by the other parent shall not be~~
18 ~~grounds for denying that parent custody.~~

19 ~~(10)~~(11) The home, school, and community history of the child.

20 ~~(11)~~(12) The reasonable preference of the child, if the court deems the child
21 to be of sufficient age to express a preference.

22 ~~(12)~~(13) The willingness and ability of each party to facilitate and encourage
23 a close and continuing relationship between the child and the other party, except
24 when ~~objectively substantial evidence of specific abusive, reckless, or illegal conduct~~
25 ~~has caused one party to have~~ has reasonable concerns for the child's safety or well-
26 being while in the care of the other party.

27 ~~(13)~~(14) The distance between the respective residences of the parties.

28 ~~(14)~~(15) The responsibility for the care and rearing of the child previously
29 exercised by each party.

C. In cases involving domestic abuse, the court shall award custody or
visitation in accordance with R.S. 9:364.

(a) The placement of factors related to domestic abuse at the start of this list is deliberate, as the existence of or potential for domestic abuse speaks directly to safety, and therefore, the child's best interest. Moreover, the Post-Separation Domestic Abuse Relief Act limits custodial and visitation rights of perpetrators of domestic abuse substantially. R.S. 9:361 et seq.

(b) The factors in Subparagraphs (A)(1) and (2) are intended to be comprehensive. The best interest of the child is impacted by abuse of the child, abuse of other household members, domestic abuse by a party against a non-household member, and any other abuse to which the child is exposed or by which the child may be affected. Under this revision, the court must consider not only actual abuse that may have an effect on the child, but also facts and circumstances that give rise to the potential that the child will be exposed to abuse.

(c) Under Paragraph B, when considering the mental and physical health of the abused party, the judge must consider the effects of past domestic abuse on both mental and physical health.

(d) When domestic abuse is alleged, the court is required to consider relevant statutes, including the Post-Separation Domestic Abuse Relief Act, even when those acts are not specifically pleaded. See, e.g., *Melancon v. Russell*, 258 So. 3d 955 (La. App. 5th Cir. 2018).

* * *

A. Subject to ~~R.S. 9:341 and 364~~ R.S. 9:364, a parent not granted custody or joint custody of a child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would not be in the best interest of the child.

* * *

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

1 D. In determining the best interest of the child under Subparagraph (B)(1)
2 or (2) of this Article, the court shall consider only the following factors:

3 * * *

4 (6) The potential for the child to be abused or to be exposed to domestic
5 abuse.

6 * * *

7 ~~TITLE VI. OF MASTER AND SERVANT~~ DOMESTIC ABUSE

8 Art. 162. Domestic abuse definition

9 Each of the following constitutes domestic abuse when committed by one
10 family member, current or former household member, or dating partner against
11 another:

12 (1) Physical or sexual abuse and any offense against the person, physical or
13 non-physical, as defined in the Louisiana Criminal Code, or the threat thereof, except
14 negligent injury and defamation, regardless of whether the perpetrator was
15 prosecuted.

16 (2) Any act or threat to act that is intended to coerce, control, punish,
17 intimidate, or exact revenge on the other party, for the purpose of preventing the
18 victim from reporting to law enforcement or requesting medical assistance or
19 emergency victim services, or for the purpose of depriving the victim of the means
20 or ability to resist the abuse or escape the relationship.

21 Revision Comments - 2021

22 (a) For offenses against the person, see R.S. 14:29 through 50.2.

23 (b) The singular includes the plural, and vice versa. See Article 3506 and
24 R.S. 1:7. Accordingly, domestic abuse as defined in this Article may be proved by
25 a pattern of behavior or an individual act or threat to act.

26 (c) Under Subparagraph (2), acts such as maintaining financial control over
27 an individual's resources for the purpose of creating dependence, withholding access
28 to money or credit cards, forbidding attendance at school or employment, stealing
29 assets, or withholding physical resources such as food, clothing, necessary
30 medications, or shelter to deprive them of the means or ability to resist or escape,
31 may rise to the level of domestic abuse. Cf., e.g., 19-A Maine Revised Statutes
32 Annotated §4002, Subsec. 3-B.

33 * * *

1 Art. 2315.8. Liability for damages caused by domestic abuse

2 A. In addition to general and special damages, exemplary damages may be
3 awarded upon proof that the injuries on which the action is based were caused by a
4 wanton and reckless disregard for the rights and safety of a family member or
5 household member, ~~as defined in R.S. 46:2132,~~ through acts of domestic abuse
6 resulting in serious bodily injury or severe emotional and mental distress, regardless
7 of whether the defendant was prosecuted for ~~his or her~~ the acts.

8 * * *

9 Revision Comments - 2021

10 The term "domestic abuse" is defined in Article 162.

11 * * *

12 Art. 2362.1. Obligation incurred in an action for divorce

13 * * *

14 B. The obligation for attorney fees and costs incurred by the perpetrator of
15 domestic abuse or awarded against him in an action for divorce granted pursuant to
16 Article 103(4) or (5) or in an action in which the court determines that a spouse or
17 a child of one of the spouses was the victim of domestic abuse committed by the
18 perpetrator during the marriage, and in incidental actions, shall be a separate
19 obligation of the perpetrator.

20 Section 2. Code of Civil Procedure Articles 891(B), 3603.1(A) and (C)(1),
21 3604(C)(1), 3607.1, 3610, and 3945(G) are hereby amended and reenacted to read as
22 follows:

23 Art. 891. Form of petition

24 * * *

25 B. For petitions involving domestic ~~violence~~ abuse brought pursuant to R.S.
26 46:2131 et seq., R.S. 9:361 et seq., Children's Code Article 1564 et seq., or Code of
27 Civil Procedure Article 3601 et seq., the address and parish of the residence of each
28 petitioner and each person on whose behalf the petition is filed may remain
29 confidential with the court.

30 * * *

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

A. Notwithstanding any provision of law to the contrary, and particularly the provisions of ~~Domestic Abuse Assistance, Part II of Chapter 28 of Title 46, Post-Separation Family Violence Relief Act and Injunctions and Incidental Orders, Parts IV and V of Chapter 1 of Code Title V of Title 9, Domestic Abuse Assistance, Chapter 8 of Title XV of the Children's Code, the Domestic Abuse Assistance Acts in R.S. 46:2131 et seq. and Children's Code Article 1564 et seq., the Post-Separation Domestic Abuse Relief Act, R.S. 9:361 et seq., R.S. 9:371 et seq., and this Chapter,~~ no temporary restraining order or preliminary injunction prohibiting a spouse or other person from harming or going near or in the proximity of another shall issue, unless the complainant has good and reasonable grounds to fear for ~~his or her~~ their safety or that of the children, or the complainant has in the past been the victim of domestic abuse committed by the other spouse.

* * *

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, or the dismissal of a petition for such, and the clerk of court shall immediately file and process the order issued regardless of the ability of the plaintiff to pay court costs.

* * *

Art. 3604. Form, contents, and duration of restraining order

* * *

C.(1) A temporary restraining order issued in conjunction with a rule to show cause for a protective order filed in an action pursuant to the ~~Protection from Family Violence Act, R.S. 46:2121 et seq., and pursuant to the Protection From Dating Violence Act, R.S. 46:2151,~~ Domestic Abuse Assistance Acts in R.S. 46:2131 et seq.

1 and Children's Code Article 1564 et seq., shall remain in force until a hearing is held
2 on the rule for the protective order or for thirty days, whichever occurs first. If the
3 initial rule to show cause is heard by a hearing officer, the temporary restraining
4 order shall remain in force for fifteen days after the hearing or until the judge signs
5 the protective order, whichever occurs last. At any time before the expiration of a
6 temporary restraining order issued pursuant to this Paragraph, it may be extended by
7 the court for a period not exceeding thirty days.

8 * * *

9 Art. 3607.1. Registry of temporary restraining order, preliminary injunction, or
10 permanent injunction

11 A. Immediately upon rendering a decision granting the petitioner a
12 temporary restraining order or a preliminary or permanent injunction prohibiting a
13 ~~person from harming a family or household member or dating partner~~ domestic
14 abuse, or directing a person accused of stalking to refrain from abusing, harassing,
15 or interfering with the victim of the stalking when the parties are strangers or
16 acquaintances, the judge shall cause to have prepared a Uniform Abuse Prevention
17 Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately
18 forward it to the clerk of court for filing on the day that the order is issued.

19 B. When a temporary restraining order, preliminary injunction, or permanent
20 injunction relative to domestic abuse or ~~dating violence or relative to~~ stalking as
21 provided for in Paragraph A of this Article, is issued, dissolved, or modified, the
22 clerk of court shall transmit the Uniform Abuse Prevention Order to the ~~Judicial~~
23 ~~Administrator's Office~~ judicial administrator's office, Louisiana Supreme Court, for
24 entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A),
25 by facsimile transmission or direct electronic input as expeditiously as possible, but
26 no later than the end of the next business day after the order is filed with the clerk
27 of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse
28 Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to
29 the chief law enforcement officer of the parish where the person or persons protected

1 by the order reside by facsimile transmission or direct electronic input as
2 expeditiously as possible, but no later than the end of the next business day after the
3 order is filed with the clerk of court. A copy of the Uniform Abuse Prevention Order
4 shall be retained on file in the office of the chief law enforcement officer until
5 otherwise directed by the court.

6 * * *

7 Art. 3610. Security for temporary restraining order or preliminary injunction

8 A temporary restraining order or preliminary injunction shall not issue unless
9 the applicant furnishes security in the amount fixed by the court, except where
10 security is dispensed with by law. The security shall indemnify the person
11 wrongfully restrained or enjoined for the payment of costs incurred and damages
12 sustained. However, no security is required when the applicant for a temporary
13 restraining order or preliminary or permanent injunction is seeking protection from
14 domestic abuse, ~~dating violence~~, stalking, or sexual assault.

15 * * *

16 Art. 3945. Incidental order of temporary child custody; injunctive relief; exceptions

17 * * *

18 G. The provisions of this Article do not apply to any order of custody of a
19 child requested in a verified petition alleging the applicability of the Domestic Abuse
20 Assistance Act, Acts in R.S. 46:2131 et seq., and Children's Code Article 1564 et
21 seq., or the Post-Separation ~~Family Violence~~ Domestic Abuse Relief Act, R.S. 9:361
22 et seq.

23 Section 3. Children's Code Articles 652(E)(2), 1564, 1565, 1566(C), 1567(A)(3) and
24 (B), 1568(A)(1), (3), and (4) and (C), 1569(A)(introductory paragraph), (B), and (D),
25 1570(A)(introductory paragraph), 1570.1(A), and 1573(introductory paragraph) and (4) are
26 hereby amended and reenacted to read as follows:

27 Art. 652. Discovery

28 * * *

1 E.

2 * * *

3 (2) The court shall not order the production or inspection of any document
4 or information which contains identifying information regarding a victim of
5 domestic abuse ~~or victim of dating violence~~ as defined in ~~R.S. 46:2132 or 2151~~ Civil
6 Code Article 162, including physical or e-mail address, place of employment,
7 telephone number, safety plan, or other protective measure or resource considered,
8 implemented, planned, or accessed by the victim. The court shall not order the
9 production or inspection of any document or information which discloses the
10 location of a shelter or other facility which provides services to victims of domestic
11 abuse ~~or dating violence~~.

12 * * *

13 Art. 1564. Purpose

14 The purpose of this Chapter is to recognize and address the complex legal
15 and social problems created by domestic ~~violence~~ abuse and to provide a civil
16 remedy in the juvenile courts for domestic ~~violence~~ abuse in homes in which
17 children reside which will afford the victim immediate and easily accessible
18 protection.

19 Art. 1565. Definitions

20 ~~As used in this Chapter:~~

21 (1) ~~"Domestic abuse" includes but is not limited to physical or sexual abuse~~
22 ~~and any offense against the person as defined in Chapter 1 of Title 14 of the~~
23 ~~Louisiana Revised Statutes of 1950, except negligent injury and defamation,~~
24 ~~committed by one family or household member against another.~~

25 (2) ~~"Family or household member" means spouses, former spouses, parents~~
26 ~~and children, stepparents, stepchildren, foster parents, foster children, and any person~~
27 ~~living in the same residence with the defendant as a spouse whether married or not~~
28 ~~if a child or children also live in the residence, who are seeking protection under this~~
29 ~~Chapter.~~

1 As used in this Chapter, "domestic abuse" has the meaning provided in Civil
2 Code Article 162.

3 Art. 1566. Assistance; clerk of court; domestic abuse advocate

4 * *

C. For purposes of this Article, "domestic abuse advocate" means an employee or representative of a community based shelter providing services to victims of family violence or domestic abuse.

8 Art. 1567. Venue; standing

9 A. Venue lies in either:

10 * * *

11 (3) The parish in which the domestic abuse is alleged to have been
12 committed.

13 * * *

B. An adult may seek relief under this Chapter by filing a petition with the court alleging domestic abuse by the defendant. Any parent, adult household member, local child protection unit of the Department of Children and Family Services, or district attorney may seek relief on behalf of any child or any person alleged to be incompetent by filing a petition with the court alleging domestic abuse by the defendant. A petitioner's right to relief under this Chapter shall not be affected by his leaving the residence or household to avoid further abuse.

21 Art. 1568. Petition

22 A. A petition filed under the provisions of this Chapter shall contain the
23 following:

(1) The name of each petitioner and each person on whose behalf the petition is filed and the name, address, and parish of residence of each individual alleged to have committed domestic abuse, if known.

27 * * *

28 (3) The facts and circumstances concerning the alleged domestic abuse.

(4) The relationship between each petitioner and each individual alleged to have committed domestic abuse.

3 * * *

4 C. If the petition requests a protective order for a spouse and alleges that the
5 other spouse has committed domestic abuse, the petition shall state whether a suit for
6 divorce is pending.

7 * * *

8 Art. 1569. Temporary restraining order

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from domestic abuse the petitioner, any children, or any person alleged to be an incompetent. Immediate and present danger of domestic abuse shall constitute good cause for purposes of this Article. The order may include but is not limited to the following:

15 * * *

B. If a temporary restraining order is granted without notice, the matter shall be set within twenty-one days for a rule to show cause why the protective order should not be issued, at which time the petitioner ~~must~~ shall prove the allegations of domestic abuse by a preponderance of the evidence. The defendant shall be given notice of the temporary restraining order and the hearing on the rule to show cause by service of process as required by law.

22 * * *

D. If no temporary restraining order has been granted, the court shall issue a rule to show cause why the protective order should not be issued, and set the rule for hearing on the earliest day that the business of the court will permit, but in any case within ten days from the date of service of the petition, at which time the petitioner ~~must~~ shall prove the allegations of domestic abuse by a preponderance of

1 the evidence. The defendant shall be given notice by service of process as required
2 by law.

3 * * *

4 Art. 1570. Protective orders; content; modification; service

5 A. The court may grant any protective order or approve any consent
6 agreement to bring about a cessation of domestic abuse of a party, any children, or
7 any person alleged to be incompetent, which relief may include but is not limited to:

8 * * *

9 Art. 1570.1. Costs paid by abuser

10 A. All court costs, attorney fees, costs of enforcement and modification
11 proceedings, costs of appeal, evaluation fees, and expert witness fees incurred in
12 maintaining or defending any proceeding concerning domestic abuse assistance in
13 accordance with the provisions of this Chapter shall be paid by the perpetrator of the
14 domestic ~~violence~~ abuse, including all costs of medical and psychological care for
15 the ~~abused adult~~ victim of the domestic abuse, or for any of the children, necessitated
16 by the domestic ~~violence~~ abuse.

17 * * *

18 Art. 1573. Law enforcement officers; duties

19 Whenever a law enforcement officer has reason to believe that ~~a family or~~
20 ~~household member has been abused~~ domestic abuse has occurred, the officer shall
21 immediately use all reasonable means to prevent further abuse, including:

22 * * *

23 (4) Notifying the abused person of his right to initiate criminal or civil
24 proceedings, the availability of the protective order pursuant to Article 1570, and the
25 availability of community assistance for domestic ~~violence~~ abuse victims.

26 Section 4. Code of Evidence Article 412.5(A) is hereby amended and reenacted to
27 read as follows:

1 Art. 412.5. Evidence of similar crimes, wrongs, or acts in certain civil cases

2 A. In any civil action alleging ~~acts of domestic abuse as defined in R.S.~~
3 ~~46:2132, family violence as defined in R.S. 9:362, or sexual abuse as defined in R.S.~~
4 ~~9:362~~ Civil Code Article 162, evidence of the defendant's commission of a crime,
5 wrong, or act involving acts of domestic abuse, ~~family violence, or sexual abuse~~ may
6 be admissible and may be considered for its bearing on any matter to which it is
7 relevant subject to the balancing test provided in Article 403.

8 * * *

9 Section 5. Code of Criminal Procedure Articles 313(A)(2), 320(G)(1), 321(C)(19),
10 893(A)(2), 895(M)(1), 899.2(D)(5) and (6), 900(A)(6)(d)(iii), the heading of Title XXXV
11 of the Code of Criminal Procedure, and Code of Criminal Procedure Articles 1001(1), (2),
12 and (4), and 1002(A)(2)(a) are hereby amended and reenacted to read as follows:

13 Art. 313. Gwen's Law; bail hearings; detention without bail

14 A.

15 * * *

16 (2) A contradictory bail hearing, as provided for in this Paragraph, may be
17 held prior to setting bail for a person in custody who is charged with domestic abuse
18 battery, violation of protective orders, stalking, or any felony offense involving the
19 use or threatened use of force or a deadly weapon upon the defendant's family
20 member, ~~as defined in R.S. 46:2132~~ or ~~upon the defendant's~~ household member as
21 defined in R.S. 14:35.3, or upon the defendant's dating partner, as defined in R.S.
22 ~~46:2151~~ 46:2132. If the court orders a contradictory hearing, the hearing shall be
23 held within five days from the date of determination of probable cause, exclusive of
24 weekends and legal holidays. At the contradictory hearing, the court shall determine
25 the conditions of bail or whether the defendant should be held without bail pending
26 trial. If the court decides not to hold a contradictory hearing, it shall notify the
27 prosecuting attorney prior to setting bail.

28 * * *

1 Art. 320. Conditions of bail undertaking

2 * * *

3 G. Domestic offenses, stalking, and sex offenses. (1) In determining
4 conditions of release of a defendant who is alleged to have committed an offense
5 against the defendant's family member or household member, ~~as defined in R.S.~~
6 ~~46:2132,~~ or against the defendant's dating partner, as defined in R.S. ~~46:2151~~
7 46:2132, or who is alleged to have committed the offense of domestic abuse battery
8 under the provisions of R.S. 14:35.3, or who is alleged to have committed the offense
9 of battery of a dating partner under the provisions of R.S. 14:34.9, or who is alleged
10 to have committed the offense of stalking under the provisions of R.S. 14:40.2, or
11 who is alleged to have committed the offense of cyberstalking under the provisions
12 of R.S. 14:40.3, or who is alleged to have committed the offense of violation of
13 protective orders under the provisions of R.S. 14:79, or who is alleged to have
14 committed the offense of unlawful communications under the provisions of R.S.
15 14:285, or who is alleged to have committed a sexual assault as defined in R.S.
16 46:2184, the court shall consider the previous criminal history of the defendant and
17 whether the defendant poses a threat or danger to the victim. If the court determines
18 that the defendant poses such a threat or danger, it shall require as a condition of bail
19 that the defendant refrain from going to the residence or household of the victim, the
20 victim's school, and the victim's place of employment or otherwise contacting the
21 victim in any manner whatsoever, and shall refrain from having any further contact
22 with the victim. The court shall also require as a condition of bail that the defendant
23 be prohibited from communicating, by electronic communication, in writing, or
24 orally, with a victim of the offense or with any of the victim's immediate family
25 members. This condition shall not apply if the victim consents by way of a request
26 to the court and the court issues an order permitting the communication. If an
27 immediate family member of the victim consents by way of a request to the court
28 and the court issues an order permitting the communication, then the defendant may
29 contact that person. The court shall also consider any statistical evidence prepared

1 by the United States Department of Justice relative to the likelihood of such
2 defendant or any person in general who has raped or molested victims under the age
3 of thirteen years to commit sexual offenses against a victim under the age of thirteen
4 in the future.

5 * * *

6 Art. 321. Types of bail; restrictions

7 * * *

8 C. Any defendant who has been arrested for any of the following offenses
9 shall not be released on his personal undertaking or with an unsecured personal
10 surety:

11 * * *

12 (19) Violation of an order issued pursuant to R.S. 9:361 et seq., R.S. 9:372,
13 R.S. 46:2131 et seq., ~~R.S. 46:2151~~, Children's Code Article 1564 et seq., Code of
14 Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles
15 30, 320, and 871.1.

16 * * *

17 Art. 893. Suspension and deferral of sentence and probation in felony cases

18 A.

19 * * *

20 (2) The court shall not suspend the sentence of a conviction for an offense
21 that is designated in the court minutes as a crime of violence pursuant to Article
22 890.3, except a first conviction for an offense with a maximum prison sentence of
23 ten years or less that was not committed against a family member or household
24 member as defined by R.S. 14:35.3, or dating partner as defined by R.S. ~~46:2151~~
25 46:2132. The period of probation shall be specified and shall not be more than five
26 years.

27 * * *

28 Art. 895. Conditions of probation

29 * * *

1 M.(1) In all cases where the defendant has been convicted of ~~an offense of~~
2 domestic abuse as provided in R.S. 46:2132(3) to a family member or household
3 member ~~as provided in R.S. 46:2132(4), or of an offense of dating violence as~~
4 ~~provided in R.S. 46:2151(C) or~~ to a dating partner ~~as provided in R.S. 46:2151(B),~~
5 the court shall order that the defendant submit to and successfully complete a court-
6 approved course of counseling or therapy related to ~~family or dating violence~~
7 domestic abuse, for all or part of the period of probation. If the defendant has
8 already completed such a counseling program, ~~said~~ the counseling requirement shall
9 be required only upon a finding by the court that ~~such~~ counseling or therapy would
10 be effective in preventing future domestic abuse ~~or dating violence~~.

11 * * *

12 Art. 899.2. Administrative sanctions for technical violations; offenses other than
13 crimes of violence or sex offenses

14 * * *

15 D. For purposes of this Article, "technical violation" means any violation of
16 a condition of probation, except that it does not include any of the following:

17 * * *

18 (5) An allegation of domestic abuse battery pursuant to R.S. 14:35.3
19 committed by one family member or household member against another, or battery
20 committed by one dating partner as defined by R.S. ~~46:2151~~ 46:2132 against
21 another.

22 (6) An allegation of a violation of a protective order, pursuant to R.S. 14:79,
23 issued against the offender to protect a family member or household member as
24 defined by R.S. 14:35.3, or a dating partner as defined by R.S. ~~46:2151~~ 46:2132.

25 * * *

26 Art. 900. Violation hearing; sanctions

27 A.

28 * * *

29 (6)

30 * * *

1 (d) A "technical violation", as used in this Paragraph, means any violation
2 except it shall not include any of the following:

3 * * *

4 (iii) An allegation of a criminal act that is subsequently proven to be a
5 violation of a protective order, pursuant to R.S. 14:79, issued against the offender to
6 protect a family member or household member as defined by R.S. 14:35.3, or dating
7 partner as defined by R.S. ~~46:2151~~ 46:2132.

8 * * *

9 TITLE XXXV. DOMESTIC ~~VIOLENCE~~ ABUSE PREVENTION FIREARM
10 TRANSFER

11 Art. 1001. Definitions

12 As used in this Title:

13 (1) "Dating partner" shall have the same meaning as provided in ~~R.S.~~
14 ~~46:2151~~ or R.S. 14:34.9.

15 (2) "Family member" shall have the same meaning as provided in ~~R.S.~~
16 ~~46:2132~~ or R.S. 14:35.3.

17 * * *

18 (4) "Household member" shall have the same meaning as provided in ~~R.S.~~
19 ~~46:2132~~ or R.S. 14:35.3.

20 * * *

21 Art. 1002. Transfer of firearms

22 A.

23 * * *

24 (2) Upon issuance of an injunction or order under any of the following
25 circumstances, the judge shall order the transfer of all firearms and the suspension
26 of a concealed handgun permit of the person who is subject to the injunction or
27 order:

(a) The issuance of a permanent injunction or a protective order pursuant to a court-approved consent agreement or pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2136, ~~2151~~, or 2173, Children's Code Article 1570, Code of Civil Procedure Article 3607.1, or Articles 30, 320, or 871.1 of this Code.

* * *

Section 6. R.S. 9:314, 345(B), 355.2(D)(2), 358.2, 358.3(B)(8), 359.13, the heading of Part IV of Chapter 1 of Code Title V of Title 9 of the Louisiana Revised Statutes of 1950, and R.S. 9:361, 362(1), (3)(c), (4), (5), (6), and (7), 363, 364, 365, 366(A), 367, 369, 372(A) and (C), 2603(B)(4)(a), 2800.9(A), 3261.1(B)(2) and (C)(2), and 4103(B)(1) are hereby amended and reenacted to read as follows:

§314. Attorney fees and court costs in domestic abuse cases

The court ~~may~~ shall assess against the perpetrator of domestic abuse all court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees in an action for divorce granted pursuant to Civil Code Article 103(4) or (5), or in an action in which the court determines that a party to a divorce or a child of one of the spouses was the victim of domestic abuse committed by the perpetrator during the marriage, and in incidental actions.

* * *

§345. Appointment of attorney in child custody or visitation proceedings

* * *

B. The court shall appoint an attorney to represent the child if, in the contradictory hearing, any party presents a prima facie case that a parent or other person caring for the child has ~~sexually, physically, or emotionally abused~~ committed domestic abuse against the child or knew or should have known that the child was being abused.

* * *

§355.2. Applicability

* * *

1 D. This Subpart shall not apply when either of the following circumstances
2 exist:

3 * * *

4 (2) There is in effect an order issued pursuant to ~~Domestic Abuse Assistance,~~
5 ~~R.S. 46:2131, et seq., Protection from Dating Violence, R.S. 46:2151, Part II of~~
6 ~~Chapter 28 of Title 46 or the Post-Separation Family Violence Relief Act or~~
7 ~~Injunctions and Incidental Orders, Parts IV and V of Chapter 1 of Code Title V of~~
8 ~~Code Book I of Title 9, except R.S. 9:372.1, all of the Louisiana Revised Statutes of~~
9 ~~1950, Domestic Abuse Assistance, Chapter 8 of Title XV of the Children's Code, or~~
10 ~~any other restraining order, preliminary injunction, permanent injunction, or any~~
11 ~~protective order prohibiting a person from harming or going near or in the proximity~~
12 ~~of the other person~~ the Domestic Abuse Assistance Acts in R.S. 46:2131 et seq. or
13 Children's Code Article 1564 et seq. or the Post-Separation Domestic Abuse Relief
14 Act, R.S. 9:361 et seq.

15 * * *

16 §358.2. No appointment in ~~family violence~~ domestic abuse cases

17 Unless good cause is shown, the court shall not appoint a parenting
18 coordinator if it finds that a party has a history of perpetrating family violence there
19 has been domestic abuse.

20 §358.3. Qualifications

21 * * *

22 B. The training specified in Paragraph (A)(3) of this Section shall include
23 instruction on all of the following:

24 * * *

25 (8) Domestic ~~violence~~ abuse and its effects on children and families.

26 * * *

27 §359.13. Applicability

28 The provisions of this Subpart shall not apply to any custody or visitation
29 order requested in a verified petition alleging the applicability of the Domestic

1 Abuse Assistance ~~Act~~, Acts in R.S. 46:2131 et seq.; or Children's Code Article 1564
2 et seq.; or the Post-Separation ~~Family Violence~~ Domestic Abuse Relief Act, R.S.
3 9:361 et seq.

4 * * *

5 PART IV. POST-SEPARATION ~~FAMILY VIOLENCE~~

6 DOMESTIC ABUSE RELIEF ACT

7 §361. Legislative findings

8 The legislature hereby reiterates its previous findings and statements of
9 purpose set forth in R.S. 46:2121 and 2131 relative to ~~family violence~~ and domestic
10 ~~violence~~ abuse. The legislature further finds that the problems of ~~family violence~~
11 domestic abuse do not necessarily cease when the victimized family is ~~legally~~
12 separated or divorced. In fact, the ~~violence~~ abuse often escalates, and child custody
13 and visitation become the new forum for the continuation of the abuse. Because
14 current laws relative to child custody and visitation are based on an assumption that
15 even divorcing parents are in relatively equal positions of power, and that such
16 parents act in the children's best interest, these laws often work against the protection
17 of the ~~children and the abused spouse in families with a history~~ victims of ~~family~~
18 ~~violence~~ domestic abuse. Consequently, laws designed to act in the children's best
19 interest may actually effect a contrary result due to the unique dynamics of ~~family~~
20 ~~violence~~ domestic abuse.

21 §362. Definitions

22 As used in this Part:

23 (1) "Abused parent" means the parent who has not committed ~~family~~
24 ~~violence~~ domestic abuse.

25 * * *

26 (3) "Court-monitored domestic abuse intervention program" means a
27 program, comprised of a minimum of twenty-six in-person sessions, that follows a
28 model designed specifically for perpetrators of domestic abuse. The offender's

1 progress in the program shall be monitored by the court. The provider of the
2 program shall have all of the following:

3 * * *

4 (c) Training in the causes and dynamics of domestic ~~violence~~ abuse,
5 characteristics of batterers, victim safety, and sensitivity of victims.

6 (4) "~~Family violence~~" includes but is not limited to physical or sexual abuse
7 and any offense against the person as defined in the Criminal Code of Louisiana,
8 except negligent injuring and defamation, committed by one parent against the other
9 parent or against any of the children. ~~Family violence does not include reasonable~~
10 ~~acts of self-defense utilized by one parent to protect himself or herself or a child in~~
11 ~~the family from the family violence of the other parent.~~ "Domestic abuse" has the
12 meaning provided in Civil Code Article 162(1).

13 (5) "Injunction" means a temporary restraining order or a preliminary or a
14 permanent court ordered injunction, as defined in the Code of Civil Procedure, which
15 prohibits the ~~violent~~ abusive parent from in any way contacting the abused parent or
16 the children except for specific purposes set forth in the injunction, which shall be
17 limited to communications expressly dealing with the education, health, and welfare
18 of the children, or for any other purpose expressly agreed to by the abused parent.
19 All such injunctions shall prohibit the ~~violent~~ abusive parent, without the express
20 consent of the abused parent, from intentionally going within fifty yards of the home,
21 school, place of employment, or person of the abused parent and the children, or
22 within fifty feet of any of their automobiles, except as may otherwise be necessary
23 for court ordered visitation or except as otherwise necessitated by circumstances
24 considering the proximity of the parties' residences or places of employment. Such
25 injunctions shall be issued in the form of a Uniform Abuse Prevention Order and
26 transmitted to the Louisiana Protective Order Registry, as required by this Part.

27 (6) "Sexual abuse" includes but is not limited to acts which are prohibited
28 by R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.4, ~~78~~, 80, 81, 81.1, 81.2, 89 and 89.1.

(7) "Supervised visitation" means face-to-face contact between a parent and a child which occurs in the immediate presence of a supervising person approved by the court under conditions which prevent any physical abuse, threats, intimidation, abduction, or humiliation of either the abused parent or the child. The supervising person shall not be any relative, friend, therapist, or associate of the parent perpetrating ~~family violence~~ domestic abuse. With the consent of the abused parent, the supervising person may be a family member or friend of the abused parent. At the request of the abused parent, the court may order that the supervising person shall be a police officer or other competent professional. The parent who perpetrated ~~family violence~~ domestic abuse shall pay any and all costs incurred in the supervision of visitation. In no case shall supervised visitation be overnight or in the home of the ~~violent~~ abusive parent.

§363. Ordered mediation prohibited

Notwithstanding any other provision of law to the contrary, in any separation, divorce, child custody, visitation, child support, alimony, or community property proceeding, no spouse or parent who satisfies the court that he or she, or any of the children, has been the victim of ~~family violence~~ domestic abuse perpetrated by the other spouse or parent shall be court ordered to participate in mediation.

§364. Child custody; visitation

A. ~~There is created a presumption that no parent who has a history of perpetrating family violence, as defined in R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, or has subjected any of his or her children, stepchildren, or any household member, as defined in R.S. 46:2132, to sexual abuse, as defined in R.S. 14:403, or has willingly permitted another to abuse any of his children or stepchildren, despite having the ability to prevent the abuse, shall be awarded sole or joint custody of children. The court may find a history of perpetrating family violence if the court finds that one incident of family violence has resulted in serious bodily injury or the court finds more than one incident of family violence. There is a presumption that a parent shall not be awarded joint or sole custody when a court~~

1 finds that the parent has committed domestic abuse that has resulted in serious bodily
2 injury or has committed more than one incident of domestic abuse, or when a parent
3 has willingly permitted another to abuse any of his children or stepchildren despite
4 having the ability to prevent the abuse.

5 B. The presumption shall be overcome only if the court finds all of the
6 following by a preponderance of the evidence:

7 (1) The perpetrating parent has successfully completed a court-monitored
8 domestic abuse intervention program as defined in R.S. 9:362, or a treatment
9 program designed for sexual abusers, after the last instance of abuse.

10 (2) The perpetrating parent is not abusing alcohol or using illegal substances
11 scheduled in R.S. 40:964.

12 (3) The best interest of the child ~~or children~~, considering the factors listed
13 in Civil Code Article 134, requires the perpetrating parent's participation as a
14 custodial parent because of the other parent's absence, mental illness, substance
15 abuse, or other circumstance negatively affecting the child ~~or children~~.

16 C. The fact that the abused parent suffers from the effects of the domestic
17 abuse shall not be the sole grounds for denying that parent custody.

18 ~~D.~~E. If the court finds that both parents have a history of perpetrating ~~family~~
19 ~~violence~~ domestic abuse, custody shall be awarded solely to the parent who is less
20 likely to continue to perpetrate ~~family violence~~ domestic abuse. In such a case, the
21 court shall mandate completion of a court-monitored domestic abuse intervention
22 program by the custodial parent. If necessary to protect the welfare of the child,
23 custody may be awarded to a suitable third person pursuant to Civil Code Article
24 133, provided that the person would not allow access to ~~a violent~~ an abusive parent
25 except as ordered by the court.

26 ~~E.~~D. If the court finds that a parent has ~~a history of perpetrating family~~
27 ~~violence~~ committed domestic abuse that has resulted in serious bodily injury or has
28 committed more than one incident of domestic abuse, or when a parent has willingly
29 permitted another to abuse any of his children or stepchildren despite having the

1 ability to prevent the abuse, the court shall allow only supervised ~~child~~ visitation
2 with that parent ~~pursuant to R.S. 9:341~~. The court shall order supervised visitation
3 only if the abusive parent proves by a preponderance of evidence that visitation
4 would be in the best interest of the child, and that the visitation would not cause
5 physical, emotional, or psychological damage to the child. If supervised visitation
6 is allowed, the court shall order such restrictions, conditions, and safeguards as are
7 necessary to minimize any risk of harm to the child. All costs incurred in compliance
8 with the provisions of this Section shall be the responsibility of the abusive parent.

9 F. If any court finds, by clear and convincing evidence, that a parent has
10 sexually abused ~~his or her~~ the child or children, the court shall prohibit all visitation
11 and contact between the abusive parent and the ~~children pursuant to R.S. 9:341~~ child.

12 G. When visitation has been restricted or prohibited by the court pursuant to
13 Subsection D or F of this Section, and the court subsequently authorizes further
14 restricted visitation, the parent whose visitation has been restricted shall not remove
15 the child from the jurisdiction of the court except for good cause shown and with the
16 prior approval of the court.

17 Revision Comments - 2021

18 (a) This revision repeals R.S. 9:341. Portions of that statute are moved here,
19 however, including the second sentence of Subsection D and the entirety of
20 Subsection G.

21 (b) A custody order rendered in accordance with this Section may be
22 modified only if all of the factors set forth in Subsection B are proved by a
23 preponderance of the evidence, in addition to any other applicable standard required
24 by law to modify the custody decree. See, e.g., Civil Code Article 131, Comment (d).

25 * * *

26 §365. Qualification of mental health professional

27 Any mental health professional appointed by the court to conduct a custody
28 evaluation in a case where ~~family violence~~ domestic abuse is an issue shall have
29 current and demonstrable training and experience working with perpetrators and
30 victims of ~~family violence~~ domestic abuse.

1 §366. Injunctions

2 A. All separation, divorce, child custody, and child visitation orders and
3 judgments in ~~family violence~~ domestic abuse cases shall contain an injunction as
4 defined in R.S. 9:362. Upon issuance of such injunction, the judge shall cause to
5 have prepared a Uniform Abuse Prevention Order as provided in R.S. 46:2136.2(C),
6 shall sign such order, and shall immediately forward it to the clerk of court for filing
7 on the day that the order is issued. The clerk of the issuing court shall transmit the
8 Uniform Abuse Prevention Order to the ~~Judicial Administrator's Office~~ judicial
9 administrator's office, Louisiana Supreme Court, for entry into the Louisiana
10 Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile
11 transmission or direct electronic input as expeditiously as possible, but no later than
12 the end of the next business day after the order is filed with the clerk of court. The
13 clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention
14 Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief
15 law enforcement officer of the parish where the person or persons protected by the
16 order reside by facsimile transmission or direct electronic input 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. A copy of the Uniform Abuse Prevention Order shall be
19 retained on file in the office of the chief law enforcement officer until otherwise
20 directed by the court.

21 * * *

22 §367. Costs

23 In any ~~family violence~~ domestic abuse case, all court costs, attorney fees,
24 costs of enforcement and modification proceedings, costs of appeal, evaluation fees,
25 and expert witness fees incurred in furtherance of this Part shall be paid by the
26 perpetrator of the ~~family violence~~ domestic abuse, including all costs of medical and
27 psychological care for the ~~abused spouse~~ victim of the domestic abuse, or for any of
28 the children, necessitated by the ~~family violence~~ domestic abuse.

29 * * *

1 §369. Limitations

2 No public funds allocated to programs which provide services to victims of
3 domestic ~~violence~~ abuse shall be used to provide services to the perpetrator of
4 domestic ~~violence~~ abuse.

5 * * *

6 §372. Injunction against abuse; form; central registry

7 A. In a proceeding for divorce, a court may grant an injunction prohibiting
8 a spouse from ~~physically or sexually abusing the other spouse or a child of either of~~
9 ~~the parties~~ committing domestic abuse.

10 * * *

11 C. The clerk of the issuing court shall transmit the Uniform Abuse
12 Prevention Order to the ~~Judicial Administrator's Office~~ judicial administrator's
13 office, Louisiana Supreme Court, for entry into the Louisiana Protective Order
14 Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct
15 electronic input as expeditiously as possible, but no later than the end of the next
16 business day after the order is filed with the clerk of court. The clerk of the issuing
17 court shall also send a copy of the Uniform Abuse Prevention Order, as provided in
18 R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer
19 of the parish where the person or persons protected by the order reside by facsimile
20 transmission or direct electronic input as expeditiously as possible, but no later than
21 the end of the next business day after the order is filed with the clerk of court. A
22 copy of the Uniform Abuse Prevention Order shall be retained on file in the office
23 of the chief law enforcement officer until otherwise directed by the court.

24 * * *

25 §2603. Scope

26 * * *

27 B. This Chapter shall not apply to:

28 * * *

1 (4)(a) A law governing adoption, divorce, or other matters of family law,
2 with the exception of a temporary restraining order issued pursuant to the Domestic
3 Abuse Assistance, Acts in R.S. 46:2131 et seq., or Protection from Dating Violence
4 ~~Act, R.S. 46:2151~~ and Children's Code Article 1564 et seq.

5 * * *

6 §2800.9. Action against a person for abuse of a minor

7 A. An action against a person for sexual abuse of a minor, or for physical
8 abuse of a minor resulting in permanent impairment or permanent physical injury or
9 scarring, is subject to a liberative prescriptive period of ten years. This prescription
10 commences to run from the day the minor attains majority, and this prescription shall
11 be suspended for all purposes until the minor reaches the age of majority. ~~Abuse has~~
12 ~~the same meaning as provided in Louisiana Children's Code Article 603.~~ This
13 prescriptive period shall be subject to any exception of peremption provided by law.

14 * * *

15 §3261.1. Lease agreements for certain residential dwellings; domestic abuse victims

16 * * *

17 B. Definitions

18 * * *

19 (2) "Domestic abuse" ~~means domestic abuse battery as defined in R.S.~~
20 ~~14:35.3~~ has the same meaning as in Civil Code Article 162, provided that the
21 domestic abuse was committed on the leased premises.

22 * * *

23 C.

24 * * *

25 (2) A lease provision prohibited under this Subsection shall be ~~null, void,~~
26 ~~and unenforceable~~ absolutely null.

27 * * *

28 §4103. Referral of a case for mediation; exceptions

29 * * *

1 B. The following types of proceedings shall not be referred to mediation
2 pursuant to this Chapter:

3 (1) Actions brought pursuant to the ~~Post-Separation Family Violence~~
4 Domestic Abuse Relief Act, R.S. 9:361 et seq., or the Domestic Abuse Assistance
5 ~~Act~~, Acts in R.S. 46:2131 et seq. and Children's Code Article 1564 et seq.

6 * * *

7 Section 7. R.S. 13:621.21(B)(2) and (C)(2), 621.22(B)(3), 721(E)(2)(l), 1802(4),
8 1819(B)(1), 1821(A)(2), 1830(B)(3), 1852(4), 1856(4) and (5), 1857(A)(4), 1858(B),
9 1859(D), 2106(B), and 5304(B)(10)(introductory paragraph) and (b) are hereby amended
10 and reenacted to read as follows:

11 §621.21. Twenty-First Judicial District

12 * * *

13 B.

14 * * *

15 (2) There is hereby created a new judgeship effective January 1, 2015. This
16 judge and his successors shall preside over Division J, which is hereby created for
17 purposes of nomination, election, and subject matter. The subject matter jurisdiction
18 of Division J is limited, under the provisions of Article V, Section 15(A) of the
19 Constitution of Louisiana, to family and juvenile matters as provided by law. For
20 purposes of this Subsection, "family matters" shall include all actions arising under
21 Titles V and VII of Book I and Title VI of Book III of the ~~Louisiana~~ Civil Code,
22 adoptions arising under the ~~Louisiana~~ Civil Code and the ~~Louisiana~~ Children's Code,
23 actions involving protection from ~~family violence pursuant to R.S. 46:2131 et seq.~~
24 domestic abuse as defined in Civil Code Article 162, and actions for enforcement,
25 collection of support, and paternity pursuant to R.S. 46:236.5. The jurisdiction or
26 term of office of any other judge of the district shall not be affected or reduced by
27 the creation of this judgeship.

28 * * *

29 C.

30 * * *

(2) There is hereby created a new judgeship effective January 1, 2015. The judge and his successors shall preside over Division K, which is hereby created for purposes of nomination, election, and subject matter. The subject matter jurisdiction of Division K is limited, under the provisions of Article V, Section 15(A) of the Constitution of Louisiana, to family and juvenile matters as provided by law. For purposes of this Subsection, "family matters" shall include all actions arising under Titles V and VII of Book I and Title VI of Book III of the ~~Louisiana~~ Civil Code, adoptions arising under the ~~Louisiana~~ Civil Code and the ~~Louisiana~~ Children's Code, actions involving protection from ~~family violence pursuant to R.S. 46:2131 et seq.~~ domestic abuse as defined in Civil Code Article 162, and actions for enforcement, collection of support, and paternity pursuant to R.S. 46:236.5. The jurisdiction or term of office of any other judge of the district shall not be affected or reduced by the creation of this judgeship.

* * *

§621.22. Twenty-Second Judicial District

* * *

B. There are hereby created two additional district judgeships for the Twenty-Second Judicial District for the parishes of St. Tammany and Washington.

* * *

(3) For purposes of this Subsection, "family and juvenile matters" shall include all actions arising under Titles IV, V, and VII of Book I and Title VI of Book III of the Civil Code and related provisions of the Civil Code Ancillaries, all actions arising under the Children's Code, adoptions arising under the Civil Code, actions involving protection from ~~family violence pursuant to R.S. 46:2131 et seq.~~ domestic abuse as defined in Civil Code Article 162, and actions for enforcement, collection of support, and paternity pursuant to R.S. 46:236.1.1 et seq.

* * *

§721. Commissioner for the Twenty-Second Judicial District Court

* * *

1 E.

2 * * *

3 (2) The powers of the commissioner when hearing criminal matters may
4 include but shall not be limited to the power to:

5 * * *

6 (1) Supervise special conditions of protective orders, domestic ~~violence~~
7 abuse, and any other probation conditions.

8 * * *

9 §1802. Definitions

10 * * *

11 (4) "Child custody proceeding" means a proceeding in which legal custody,
12 physical custody, or visitation with respect to a child is an issue. The term includes
13 a proceeding for divorce, separation, neglect, abuse, dependency, guardianship,
14 paternity, termination of parental rights, and protection from domestic ~~violence~~
15 abuse, in which the issue may appear. The term does not include a proceeding
16 involving juvenile delinquency, contractual emancipation, or enforcement under
17 Subpart C of this Part.

18 * * *

19 §1819. Inconvenient forum

20 * * *

21 B. Before determining whether it is an inconvenient forum, a court of this
22 state shall consider whether it is appropriate for a court of another state to exercise
23 jurisdiction. For this purpose, the court shall allow the parties to submit information
24 and shall consider all relevant factors, including:

25 (1) Whether domestic ~~violence~~ abuse has occurred and is likely to continue
26 in the future and which state could best protect the parties and the child.

27 * * *

1 §1821. Information to be submitted to court

2 A. Subject to local law providing for the confidentiality of procedures,
3 addresses, and other identifying information in a child custody proceeding, each
4 party, in its first pleading or in an attached affidavit, shall give information, if
5 reasonably ascertainable, under oath as to the child's present address or whereabouts,
6 the places where the child has lived during the last five years, and the names and
7 present addresses of the persons with whom the child has lived during that period.

8 The pleading or affidavit shall state whether the party:

9 * * *

10 (2) Knows of any proceeding that could affect the current proceeding,
11 including proceedings for enforcement and proceedings relating to domestic ~~violence~~
12 abuse, protective orders, termination of parental rights, and adoptions and, if so,
13 identify the court, the case number, and the nature of the proceeding.

14 * * *

15 §1830. Expedited enforcement of child custody determination

16 * * *

17 B. A petition for enforcement of a child custody determination shall state:

18 * * *

19 (3) Whether any proceeding has been commenced that could affect the
20 current proceeding, including proceedings relating to domestic ~~violence~~ abuse,
21 protective orders, termination of parental rights, and adoptions and, if so, identify the
22 court, the case number, and the nature of the proceeding.

23 * * *

24 §1852. Definitions

25 For purposes of this Part, the following terms shall have the following
26 meanings unless the context clearly indicates otherwise:

27 * * *

28 (4) "Child-custody proceeding" means a proceeding in which legal custody,
29 physical custody, or visitation with respect to a child is at issue. The term includes

1 a proceeding for divorce, dissolution of marriage, separation, neglect, abuse,
2 dependency, guardianship, paternity, termination of parental rights, or protection
3 from domestic ~~violence~~ abuse.

4 * * *

5 §1856. Contents of petition

6 A petition under this Part shall be verified and include a copy of any existing
7 child-custody determination, if available. The petition shall specify the risk factors
8 for abduction, including the relevant factors described in R.S. 13:1857. Subject to
9 the provisions of R.S. 13:1821(E), if reasonably ascertainable, the petition shall
10 contain:

11 * * *

12 (4) A statement of whether a prior action to prevent abduction or domestic
13 ~~violence~~ abuse has been filed by a party or other individual or entity having custody
14 of the child, and the date, location, and disposition of the action.

15 (5) A statement of whether a party to the proceeding has been arrested for
16 a crime related to domestic ~~violence~~ abuse, stalking, or child ~~abuse~~ or neglect, and
17 the date, location, and disposition of the case.

18 * * *

19 §1857. Factors to determine risk of abduction

20 A. In determining whether there is a credible risk of abduction of a child, the
21 court shall consider all of the following factors and any evidence that the petitioner
22 or respondent:

23 * * *

24 (4) Has engaged in domestic ~~violence~~ abuse, stalking, or child ~~abuse~~ or
25 neglect.

26 * * *

27 §1858. Provisions and measures to prevent abduction

28 * * *

1 B. If, at a hearing on a petition under this Part or on the court's own motion,
2 the court after reviewing the evidence finds a credible risk of abduction of the child,
3 the court shall enter an abduction prevention order. The order shall include the
4 provisions required by Subsection A of this Section and measures and conditions,
5 including those in Subsections C, D, and E of this Section, that are reasonably
6 calculated to prevent abduction of the child, giving due consideration to the custody
7 and visitation rights of the parties. The court shall consider the age of the child, the
8 potential harm to the child from an abduction, the legal and practical difficulties of
9 returning the child to the jurisdiction if abducted, and the reasons for the potential
10 abduction, including evidence of domestic ~~violence~~ abuse, stalking, or child ~~abuse~~
11 or neglect.

12 * * *

13 §1859. Warrant to take physical custody of child

14 * * *

15 D. If feasible, before issuing a warrant and before determining the placement
16 of the child after the warrant is executed, the court may order a search of the relevant
17 databases of the National Crime Information Center system and similar state
18 databases to determine if either the petitioner or respondent has a history of domestic
19 ~~violence~~ abuse, stalking, or child ~~abuse~~ or neglect.

20 * * *

21 §2106. Particular courts; nonrefundable fee; assessment and disposition

22 * * *

23 B. In each criminal proceeding, involving ~~family violence as defined in R.S.~~
24 ~~46:2121.1~~ domestic abuse, simple or third degree rape, forcible or second degree
25 rape, aggravated or first degree rape, aggravated assault, aggravated battery, simple
26 battery, aggravated kidnapping, simple kidnapping, or false imprisonment, or any
27 attempt to commit the aforementioned crimes, a nonrefundable fee of twenty-five
28 dollars shall be collected by the clerk of the City Court of East St. Tammany and the
29 clerk of the Twenty-Second Judicial District Court, St. Tammany Parish, which shall

1 be in addition to all other fines, costs, or forfeitures lawfully imposed. If the
2 defendant is found guilty and placed on probation, the court shall, as a condition of
3 probation require the defendant to pay the additional fee at the time the defendant is
4 placed on probation. If the sentence of the court is incarceration, the fee shall be
5 collected at the time of imposition of sentence.

6 * * *
7 §5304. The drug division probation program

8 * * *

9 B. Participation in probation programs shall be subject to the following
10 provisions:

11 * * *

12 (10) In order to be eligible for the drug division probation program, the
13 defendant ~~must~~ shall satisfy each of the following criteria:

14 * * *

15 (b) The crime before the court cannot be a crime of violence as defined in
16 R.S. 14:2(B), except a first conviction of an offense with a maximum prison sentence
17 of ten years or less that was not committed against a family member or household
18 member as defined by R.S. 14:35.3, or against a dating partner as defined by R.S.
19 ~~46:2151~~ 46:2132, or an offense of domestic abuse battery that is punishable by
20 imprisonment at hard labor as provided in R.S. 14:35.3.

21 * * *

22 Section 8. R.S. 14:79(A)(1)(a) and (E) are hereby amended and reenacted to read
23 as follows:

24 §79. Violation of protective orders

25 A.(1)(a) Violation of protective orders is the willful disobedience of a
26 preliminary or permanent injunction or protective order issued pursuant to R.S. 9:361
27 et seq., R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., R.S.
28 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure
29 Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 320 and 871.1

1 after a contradictory court hearing, or the willful disobedience of a temporary
2 restraining order or any ex parte protective order issued pursuant to R.S. 9:361 et
3 seq., R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., criminal
4 stay-away orders as provided for in Code of Criminal Procedure Article 320,
5 Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 and
6 3607.1, if the defendant has been given notice of the temporary restraining order or
7 ex parte protective order by service of process as required by law.

8 * * *

9 E.(1) Law enforcement officers shall use every reasonable means, including
10 but not limited to immediate arrest of the violator, to enforce a preliminary or
11 permanent injunction or protective order obtained pursuant to R.S. 9:361, R.S. 9:372,
12 R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., R.S. 46:2181 et seq.,
13 Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and
14 3607.1, or Code of Criminal Procedure Articles 320 and 871.1 after a contradictory
15 court hearing, or to enforce a temporary restraining order or ex parte protective order
16 issued pursuant to R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S.
17 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., or Code
18 of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Article
19 320 if the defendant has been given notice of the temporary restraining order or ex
20 parte protective order by service of process as required by law.

21 (2) Law enforcement officers shall at a minimum issue a summons to the
22 person in violation of a temporary restraining order, a preliminary or permanent
23 injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372,
24 R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2181 et seq., Children's Code Article
25 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal
26 Procedure Articles 30, 320, and 871.1.

27 * * *

Section 9. R.S. 15:257.1(C)(1)(c), 574.7(C)(2)(a)(x) and (4)(e) and (f), 574.9(H)(2)(c), 587.8(A) and (B)(3)(introductory paragraph), (a), (b), and (d) and (7) are hereby amended and reenacted to read as follows:

§257.1. Exception for material witness warrants for victims of sex offenses and intimate partner violence; legislative intent

* * *

C.(1) A judge shall not order a material witness warrant to secure the presence of a victim listed in the indictment or bill of information solely for the purpose of securing the attendance or testimony of a victim listed in a felony prosecution in cases where the instituted charges are either:

* * *

(c) A case where the victim listed in the indictment or bill of information of the current felony charge pending before the court is the current or former spouse or the current or former dating partner as defined by R.S. ~~46:2151~~ 46:2132, regardless of whether or not the individuals reside in the same household that is a pending matter before a court.

* * *

§574.7. Custody and supervision of parolees; modification or suspension of supervision; violation of conditions of parole; sanctions; alternative conditions; administrative sanctions

* * *

C.

* * *

(2) The department shall promulgate rules to implement the provisions of this Subsection to establish the following:

(a) A system of structured, administrative sanctions which shall be imposed for technical violations of parole and which shall take into consideration the following factors:

* * *

(x) Incarceration shall not be used for first or second violations of alcohol use or admission, except for defendants convicted of operating a vehicle while intoxicated pursuant to R.S. 14:98; defendants convicted of domestic abuse battery pursuant to R.S. 14:35.3 committed by one family member or household member against another; defendants convicted of battery by one dating partner as defined by R.S. ~~46:2151~~ 46:2132 against another; or defendants convicted of a violation of a protective order, pursuant to R.S. 14:79, issued against the defendant to protect a family member or household member as defined by R.S. 14:35.3, or a dating partner as defined by R.S. ~~46:2151~~ 46:2132.

* * *

(4) For purposes of this Subsection, "technical violation" means any violation of a condition of parole, that does not include any of the following:

* * *

(e) An allegation of domestic abuse battery pursuant to R.S. 14:35.3 committed by one family member or household member against another, or an allegation of battery committed by one dating partner as defined by R.S. ~~46:2151~~ 46:2132 against another.

(f) An allegation of violation of a protective order, pursuant to R.S. 14:79, issued against the offender to protect a family member or household member as defined by R.S. 14:35.3, or a dating partner as defined by R.S. ~~46:2151~~ 46:2132.

* * *

§574.9. Revocation of parole for violation of condition; committee panels; return to custody hearing; duration of reimprisonment and reparole after revocation; credit for time served; revocation for a technical violation

* * *

H.

* * *

(2) A "technical violation", as used in this Subsection, means any violation except it shall not include any of the following:

* * *

(c) An allegation of a criminal act that is subsequently proven to be a violation of a protective order, pursuant to R.S. 14:79, issued against the offender to protect a household member or family member as defined by R.S. 14:35.3, or dating partner as defined by R.S. ~~46:2151~~ 46:2132.

* * *

§587.8. Access to criminal history system for victims of domestic abuse, victims of human trafficking, ~~victims of dating violence~~, and victims of sexual assault.

A. In order to protect the integrity and the security of the family court and civil court system and in order to obtain evidence in furtherance of Code of Evidence Article 412.5, a licensed attorney who is counsel of record in a case involving a victim of domestic abuse, human trafficking, ~~dating violence~~, or sexual assault shall be allowed to access state criminal history records on a certain individual who is a party or a witness in the civil cases in which the attorney is counsel of record.

B. For purposes of this Section, the following definitions shall apply:

* * *

(3) "Civil case" means a case filed in family court or other court of competent jurisdiction where civil cases are heard related to allegations of domestic abuse, ~~dating violence, family violence, violence against a child, violence against a spouse~~, sexual assault, or human trafficking, including but not limited to all of the following:

(a) A civil case for an injunction or protective order sought pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2161 et seq., R.S. 46:2171 et seq., or R.S. 46:2181 et seq., Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 or 3607.1.

(b) A civil case whereby evidence is admissible, pursuant to Code of Evidence Article 412.5, related to acts of domestic abuse as defined in ~~R.S. 46:2132~~, ~~family violence as defined in R.S. 9:362~~, ~~dating violence as defined in R.S. 46:2151~~, Civil Code Article 162 or sexual abuse as defined in R.S. 9:362.

* * *

1 (d) A civil case filed pursuant to Title V or VI of Book I of the Civil Code.

2 * * *

3 (7) "Witness" means a person who is not a party to the case but who may be
4 awarded custody or visitation of the child or who has had contact or may have future
5 contact with the child, the alleged victim, or the alleged perpetrator of domestic
6 abuse, human trafficking, ~~dating violence~~, or sexual assault.

7 * * *

8 Section 10. R.S. 17:7.2(A)(6) is hereby amended and reenacted to read as follows:

9 §7.2. Approved teacher education programs

10 A. In carrying out its responsibility to prescribe the qualifications and
11 provide for the certification of teachers under authority of R.S. 17:7(6), the State
12 Board of Elementary and Secondary Education, subject to the constitutional power
13 and authority of the Board of Regents, the Board of Supervisors for the University
14 of Louisiana System, the Board of Supervisors of Louisiana State University and
15 Agricultural and Mechanical College, and the Board of Supervisors of Southern
16 University and Agricultural and Mechanical College, shall establish qualifications
17 and requirements for the approval of teacher education programs from which
18 graduates may be certified. The qualifications and requirements established by the
19 State Board of Elementary and Secondary Education for an approved teacher
20 education program shall include but not be limited to the following:

21 * * *

22 (6) That the program shall include, for certification to teach grades seven
23 through twelve, training in teaching family life education and the use of methods and
24 materials to integrate this material into an existing course of study such as home
25 economics, science, health, physical hygiene, or physical education. For purposes
26 of this Paragraph, "family life education" shall mean information and techniques as
27 appropriate for the age of a student relative to family living and community
28 relationships; the value of postponing sexual activity; human sexuality; human

1 reproduction and contraception; the etiology, prevention, and effects of sexually
2 transmitted diseases, including human acquired immunodeficiency virus disease
3 (AIDS); the consequences of tobacco use and substance abuse; the consequences of
4 the lack of and inadequate prenatal care; child neglect ~~and abuse~~; domestic ~~violence~~
5 abuse; and the responsibilities of parenthood.

6 * * *

7 Section 11. R.S. 22:1063(A)(1)(g) and 1078(A) are hereby amended and reenacted
8 to read as follows:

9 §1063. Prohibiting discrimination against individual participants and beneficiaries
10 based on health status

11 A.(1) Subject to Paragraph (2) of this Subsection, a group health plan, and
12 a health insurance issuer offering group health insurance coverage in connection with
13 a group health plan, may not establish rules for eligibility, including continued
14 eligibility, of any individual to enroll under the terms of the plan based on any of the
15 following health status-related factors in relation to the individual or a dependent of
16 the individual:

17 * * *

18 (g) Evidence of insurability, including conditions arising out of acts of
19 domestic ~~violence~~ abuse.

20 * * *

21 §1078. Protections required for victims of the crime of domestic ~~violence~~ abuse

22 A. As used in this Section, the following terms shall be defined as follows:

23 (1) "Abuse" means bodily injury as a result of battery or any offense against
24 the person as defined in the Louisiana Criminal Code, except negligent injury and
25 defamation, when such battery or offense is committed by one family or household
26 member against another. "Abuse" shall also mean abuse of adults as defined in R.S.
27 ~~15:1503 when committed by an adult child or adult grandchild.~~

(3)(2) "Confidential abuse information" means information about acts of domestic abuse or the abuse status of a subject of abuse, the fact that a person's medical condition is abuse-related if the issuer knows or has reason to know it is abuse-related, the home and work address and telephone number of a subject of abuse, or the status of an applicant or insured as a family member, employer, or associate of a subject of abuse, or as a person in a relationship with a subject of abuse.

(4) "Insurance professional" means an agent, broker, adjuster, or third party administrator as defined in this Title.

(5) "Subject of abuse" means a person against whom an act of domestic abuse has been directed; who has current or prior injuries, illnesses, or disorders that result from abuse; or who seeks, may have sought, or had reason to seek medical or psychological treatment for abuse or protection, court-ordered protection, or shelter from abuse.

Section 12. R.S. 33:9701(C)(2) is hereby amended and reenacted to read as follows:

§9701. Ensuring access to emergency services for victims of domestic abuse and other crimes; parishes and municipalities; prohibited ordinances

C. As used in this Section, the following words and phrases shall have the meaning ascribed to them in this Subsection, except as otherwise may be provided or unless a different meaning is plainly required by the context:

(2) "Domestic abuse" has the same meaning as provided in ~~R.S. 46:2132~~
Civil Code Article 162.

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

Section 13. R.S. 37:2554(B)(2)(b) is hereby amended and reenacted to read as follows:

§2554. Qualifications; examinations; certificates

* * *

B.

* * *

(2)

* * *

(b) Notwithstanding any provision of law to the contrary, in Orleans Parish Civil District Court, electronic or audio recording may be utilized only in hearings related to protection from domestic abuse pursuant to R.S. 46:2131 et seq. ~~or R.S. 46:2151~~, protection from stalking pursuant to R.S. 46:2171 et seq., and protection for victims of sexual assault pursuant to R.S. 46:2181 et seq.

* * *

Section 14. R.S. 39:1619(A)(3)(introductory paragraph), (a), (f), and (g) are hereby amended and reenacted to read as follows:

§1619. Social service contracts

A. Social services include:

* * *

(3) Protection for adults and children include services rendered by a contractor to provide therapeutic intervention for adults or children who are in danger or threatened with danger of physical or mental injury, neglect, maltreatment, extortion, or exploitation, including victims of ~~family violence~~ domestic abuse.

These services include but are not limited to:

(a) Community planning for ~~neglect/abuse~~ neglect or abuse.

* * *

(f) Emergency shelter for, and services in support of, victims of rape/~~family violence or services in support of same~~ or domestic abuse.

1 (g) Training and evaluation services for ~~same~~ victims of rape or domestic
2 abuse.

3 * * *

4 Section 15. R.S. 40:506(D), 1379.3.2(A), 2405.8(E)(1)(introductory paragraph), (a),
5 and (g) and (2) and (I)(3)(a)(i) and (b), and 2533(C)(1) are hereby amended and reenacted
6 to read as follows:

7 §506. Termination of tenancy

8 * * *

9 D.(1) The local housing authority may not terminate the tenancy of a
10 household or a resident or terminate any other assistance provided by the authority
11 under Paragraph (B)(1) of this Section for reasons of domestic abuse, ~~dating~~
12 ~~violence, or family violence~~ as defined in Civil Code Article 162 committed against
13 the head of household, a member of household, or a resident. The local housing
14 authority may terminate the tenancy of or any other assistance provided to the
15 perpetrator of the domestic abuse, ~~dating violence, or family violence~~.

16 (2) For purposes of Paragraph (B)(1) of this Section, no person may be
17 considered a guest or invitee of a member of a household without the consent of the
18 head of household or a member of household. Consent is automatically withdrawn
19 when a guest or invitee is ~~a perpetrator of an act of~~ commits domestic abuse, ~~dating~~
20 ~~violence, or family violence~~.

21 ~~(3) As used in this Subsection:~~

22 ~~(a) "Domestic abuse" has the meaning as defined in R.S. 46:2132(3).~~

23 ~~(b) "Dating violence" has the meaning as defined in R.S. 46:2151(C).~~

24 ~~(c) "Family violence" has the meaning as defined in R.S. 9:362(3).~~

25 * * *

26 §1379.3.2. Temporary concealed handgun permit; protective order; time limitations

27 A. A person on whose behalf the court has issued a permanent injunction or
28 a protective order to bring about the cessation of domestic abuse ~~by one family~~
29 ~~member, household member, or dating partner~~ pursuant to a court-approved consent

1 agreement or pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372, R.S.
2 46:2136, ~~2151~~, or 2173, Children's Code Article 1570, Code of Civil Procedure
3 Article 3607.1, or Code of Criminal Procedure Articles 30, 320, or 871.1 and which
4 prohibits the subject of the order from possessing a firearm for the duration of the
5 injunction or protective order pursuant to the provisions of R.S. 46:2136.3 may apply
6 to the deputy secretary of public safety services of the Department of Public Safety
7 and Corrections for the issuance of a temporary concealed handgun permit.

8 * * *

9 §2405.8. Additional peace officer training requirements

10 * * *

11 E.(1) The council shall develop a domestic ~~violence~~ abuse awareness
12 training program in a series of modules to include all of the following:

13 (a) Dynamics of domestic ~~violence~~ abuse.

14 * * *

15 (g) Applicable state and federal domestic ~~violence~~ abuse laws.

16 (2) On and after July 1, 2018, each peace officer, as defined in R.S.
17 40:2402(3)(a), shall complete a domestic ~~violence~~ abuse awareness training program
18 as provided by the council.

19 * * *

20 I.

21 * * *

22 (3)(a) The council shall promulgate rules in accordance with the
23 Administrative Procedure Act for implementation of the following training programs
24 for peace officers as provided in Subsections E and F of this Section:

25 (i) Domestic ~~violence~~ abuse awareness training.

26 * * *

27 (b) The council shall create and maintain a list of peace officers who have
28 successfully completed the domestic ~~violence~~ abuse awareness training and the
29 training on communication with deaf or hard of hearing individuals.

30 * * *

§2533. Personnel files

* * *

C.(1) A law enforcement officer, upon written request, shall have any record of a formal complaint made against the officer for any violation of a municipal or parish ordinance or state criminal statute listed in Paragraph (2) of this Subsection involving domestic ~~violence~~ abuse expunged from his personnel file, if the complaint was made anonymously to the police department and the charges are not substantiated within twelve months of the lodging of the complaint.

* * *

Section 16. R.S. 44:3(A)(6) and (J)(3) are hereby amended and reenacted to read as follows:

§3. Records of prosecutive, investigative, and law enforcement agencies and communications districts

A. Nothing in this Chapter shall be construed to require disclosures of records, or the information contained therein, held by the offices of the attorney general, district attorneys, sheriffs, police departments, Department of Public Safety and Corrections, marshals, investigators, public health investigators, correctional agencies, communications districts, intelligence agencies, Council on Peace Officer Standards and Training, Louisiana Commission on Law Enforcement and Administration of Criminal Justice, or publicly owned water districts of the state, which records are:

* * *

(6) Records concerning status offenders as defined in the Children's Code ~~of Juvenile Procedure~~.

* * *

J.

* * *

1 (3) Nothing in this Chapter shall be construed to require the disclosure of
 2 information which would reveal the address or contact information of a victim of a
 3 crime against a family member, household member, or dating partner. "Family
 4 member" and "household member" shall have the same definitions as in R.S.
 5 46:2132 and "dating partner" shall have the same definition as in R.S. 46:2151.

6 Section 17. R.S. 46:52.1(F)(3)(a)(v), 236.5(C)(1) and (3)(k), 236.10(C)(2)(d)(i),
 7 1842(15)(d), 1844(C)(2), 1845(C)(2), 1846(A) and (C), 1861(A)(1)(a), 2131, 2132(3) and
 8 (4), 2133(B)(3) and (D), 2134(A)(1), (2), and (3) and (C), 2135(A)(introductory paragraph),
 9 (B), and (D), 2136(A)(introductory paragraph), 2136.1(A), 2136.2(A) and (B),
 10 2136.3(A)(introductory paragraph), 2138(C), 2140(A), (B)(introductory paragraph) and (4),
 11 (C)(1), (2)(introductory paragraph), (e), and (g), and (3)(b), and 2143(A), (B), and (C) are
 12 hereby amended and reenacted to read as follows:

13 §52.1. Integrated case management; "No Wrong Door"

14 * * *

15 F. This state leadership group shall:

16 * * *

17 (3) Lead execution of service integration plans to include:

18 (a) Comprehensive screening for needs, coordinated assessment and referrals
 19 in multiple areas including, but not limited to the following:

20 * * *

21 (v) Domestic ~~violence~~ abuse.

22 * * *

23 §236.5. Expedited process for establishment of paternity and establishment or
 24 enforcement of support; hearing officers

25 * * *

26 C. An expedited process for the establishment of paternity and the
 27 establishment and enforcement of support and other related family and domestic
 28 matters in district courts using hearing officers may be implemented as follows:

(1) The judge or judges of the appropriate court or courts for the establishment of paternity or the establishment and enforcement of support and other domestic and family matters may appoint one or more hearing officers to hear paternity, support, and other domestic and family related matters. Domestic and family matters shall include divorce and all issues ancillary to a divorce proceeding; all child-related issues such as paternity, filiation, custody, visitation, and support in non-marital cases; all protective orders filed in accordance with R.S. 46:2131 et seq.; ~~R.S. 46:2151 et seq.~~, and the Children's Code and all injunctions filed in accordance with R.S. 9:361, 371, and 372 and Code of Civil Procedure Articles 3601 et seq., which involve personal abuse, terrorizing, stalking, or harassment; and enforcement of orders in any of these matters, including contempt of court.

* * *

(3) The hearing officer shall act as a finder of fact and shall make written recommendations to the court concerning any domestic and family matters as set forth by local court rule, including but not limited to the following matters:

* * *

(k) Hear and make recommendations on all protective orders filed in accordance with R.S. 46:2131 et seq., ~~R.S. 46:2151 et seq.~~, R.S. 46:2171 et seq., R.S. 46:2181 et seq., and the Children's Code and on all injunctions filed in accordance with R.S. 9:361 et. seq., 371, and 372 and Code of Civil Procedure Articles 3601 et seq., which involve personal abuse, terrorizing, stalking, or harassment; and hear and make recommendations on all motions for contempt of court and motions to extend, modify, or dissolve protective orders and injunctions.

* * *

§236.10. State case registry of child support orders

* * *

C.

* * *

(2) The department shall implement procedures to safeguard any confidential information contained in the state case registry, including the following:

* * *

(d)(i) If the department discloses information to a court, the department shall advise the court if there is reasonable evidence of domestic ~~violence or child~~ abuse perpetrated against a person or child who is the subject of the inquiry.

* * *

§1842. Definitions

In this Chapter:

* * *

(15) "Victim" means a person against whom any of the following offenses have been committed:

* * *

(d) Any offense against the person as defined in the Criminal Code committed against a family member or household member ~~as defined in R.S. 46:2132~~ or dating partner as defined in R.S. ~~46:2151(B)~~ 46:2132.

* * *

§1844. Basic rights for victim and witness

* * *

C.

* * *

(2) All law enforcement or judicial agencies shall provide a private setting for all interviewing of victims of crime. "Private setting" shall mean an enclosed room from which the occupants are not visible or otherwise identifiable and whose conversations cannot be heard from outside such room. Only those persons directly and immediately related to the interviewing of the victim, specifically the victim, a social worker, psychologist, or other professional, the victim advocate designated by the sheriff's office, or a representative from a not-for-profit victim service organization, including but not limited to rape crisis centers, domestic ~~violence~~ abuse

1 advocacy groups, and alcohol abuse or substance abuse groups providing emotional
2 support to the victim, shall be present, unless the victim requests the exclusion of
3 such person from the interview, and, when appropriate, the parent or parents of the
4 victim.

5 * * *

6 §1845. Additional rights for victims of sexual assaults; notification of rights

7 * * *

8 C.

9 * * *

10 (2) All law enforcement and judicial agencies shall provide a private setting
11 for conducting all interviews of a victim of sexual assault. "Private setting" shall
12 mean an enclosed room from which the occupants are not visible or otherwise
13 identifiable and whose conversations cannot be heard from outside the room. Only
14 those persons directly and immediately related to the interviewing of the victim,
15 specifically the victim, a social worker, psychologist, or other professional, a victim
16 advocate designated by the sheriff's office or a representative from a not-for-profit
17 victim service organization including but not limited to rape crisis centers, sexual
18 assault centers, domestic ~~violence~~ abuse advocacy groups, and alcohol abuse or
19 substance abuse groups providing emotional support to the victim, shall be present
20 unless the victim requests the exclusion of such person from the interview, and when
21 appropriate, the parent or parents of the victim.

22 * * *

23 §1846. Communication between offender and victim prohibited; exceptions

24 A. A person who has been charged by bill of information or indictment with
25 any crime of violence as defined in R.S. 14:2 committed upon any person, any felony
26 sex offense as defined in R.S. 46:1844(W) committed upon any person, any felony
27 human trafficking-related offense as defined in R.S. 46:1844(W) committed upon
28 any person, or any offense, that is a felony, committed upon a family member,
29 household member, or dating partner, ~~as those terms are defined by R.S. 46:2132, or~~

1 any immediate family member of such person, shall be prohibited from
2 communicating, either by electronic communication, in writing, or orally, with a
3 victim of the offense, or any of his immediate family members for which the person
4 has been charged or for which disposition of the case is pending.

5 * * *

6 C. A person who has been sentenced or found not guilty by reason of
7 insanity for a crime of violence as defined in R.S. 14:2 committed upon any person,
8 any felony sex offense as defined in R.S. 46:1844(W) committed upon any person,
9 any felony human trafficking-related offense as defined in R.S. 46:1844(W)
10 committed upon any person, or any offense; that is a felony; committed upon a
11 family member, household member, or dating partner, ~~as those terms are defined by~~
12 ~~R.S. 46:2132~~, or any immediate family member of such person, shall be prohibited
13 from communicating, either by electronic communication, in writing, or orally, with
14 a victim of the offense, or any of his immediate family members, for which the
15 person has been sentenced unless the victim or his immediate family members
16 initiate the communication through the Department of Public Safety and Corrections,
17 and it is agreed that the victim and the offender participate in a formally defined
18 restorative justice program administered through the department. Any sentencing
19 order issued pursuant to this Subsection shall be reflected in the sentencing minutes
20 of the issuing court. The issuing court shall notify the Department of Public Safety
21 and Corrections of the issuance of the sentencing order.

22 * * *

23 §1861. Family justice centers

24 A.(1) A family justice center may be established in any judicial district to
25 provide support, services, and assistance to victims of the following types of
26 offenses:

27 (a) Domestic abuse as defined by ~~R.S. 46:2132(3)~~ and dating violence as
28 defined in R.S. 46:2151(C) in Civil Code Article 162.

29 * * *

1 §2131. Purposes

2 The purpose of this Part is to recognize and address the complex legal and
3 social problems created by domestic ~~violence~~ abuse. The legislature finds that
4 existing laws which regulate the dissolution of marriage do not adequately address
5 problems of protecting and assisting the victims of domestic abuse. The legislature
6 further finds that previous societal attitudes have been reflected in the policies and
7 practices of law enforcement agencies and prosecutors which have resulted in
8 different treatment of crimes occurring between family members, household
9 members, or dating partners and those occurring between strangers. It is the intent
10 of the legislature to provide a civil remedy for domestic ~~violence~~ abuse which will
11 afford the victim immediate and easily accessible protection. Furthermore, it is the
12 intent of the legislature that the official response of law enforcement agencies to
13 cases of domestic ~~violence~~ abuse shall stress the enforcement of laws to protect the
14 victim and shall communicate the attitude that ~~violent~~ abusive behavior is not
15 excused or tolerated.

16 §2132. Definitions

17 As used in this Part:

18 * * *

19 (3) ~~"Domestic abuse" includes but is not limited to physical or sexual abuse~~
20 ~~and any offense against the person, physical or non-physical, as defined in the~~
21 ~~Criminal Code of Louisiana, except negligent injury and defamation, committed by~~
22 ~~one family member, household member, or dating partner against another. "Domestic~~
23 ~~abuse" also includes abuse of adults as defined in R.S. 15:1503 when committed by~~
24 ~~an adult child or adult grandchild. "Dating partner" means any person who is or has~~
25 been in a social relationship of a romantic or intimate nature with the victim. The
26 nature of such a relationship shall be determined based on a consideration of the
27 following factors:

28 (a) The length of the relationship.

29 (b) The type of relationship.

1 (c) The frequency of interaction between the persons involved in the
2 relationship.

3 (4) ~~"Family members" means spouses, former spouses, parents and children,~~
4 ~~stepparents, stepchildren, foster parents, foster children, other ascendants, and other~~
5 ~~descendants. "Family member" also means the other parent or foster parent of any~~
6 ~~child or foster child of the offender. "Household members" means any person~~
7 ~~presently or formerly living in the same residence with the defendant and who is~~
8 ~~involved or has been involved in a sexual or intimate relationship with the defendant,~~
9 ~~or any child presently or formerly living in the same residence with the defendant,~~
10 ~~or any child of the defendant regardless of where the child resides. "Dating partner"~~
11 ~~means any person protected from violence under R.S. 46:2151. If a parent or~~
12 ~~grandparent is being abused by an adult child, adult foster child, or adult grandchild,~~
13 ~~the provisions of this Part shall apply to any proceeding brought in district court.~~
14 "Domestic abuse" means each of the following when committed by one family
15 member, current or former household member, or dating partner against another:

16 (a) Physical or sexual abuse and any offense against the person, physical or
17 non-physical, as defined in Louisiana Criminal Code, or the threat thereof, except
18 negligent injury and defamation, regardless of whether the perpetrator was
19 prosecuted.

20 (b) Any act or threat to act that is intended to coerce, control, punish,
21 intimidate, or exact revenge on the other party for the purpose of preventing the
22 victim from reporting to law enforcement or requesting medical assistance or
23 emergency victim services, or for the purpose of depriving the victim of the means
24 or ability to resist the abuse or escape the relationship.

25 §2133. Jurisdiction; venue; standing

26 * * *

27 B. Venue lies:

28 * * *

(3) In the parish where the domestic abuse is alleged to have been committed.

* * *

D. An adult may seek relief under this Part by filing a petition with the court alleging domestic abuse by the defendant. Any parent, adult household member, or district attorney may seek relief on behalf of any minor child or any person alleged to be incompetent by filing a petition with the court alleging domestic abuse by the defendant. A petitioner's right to relief under this Part shall not be affected by leaving the residence or household to avoid further abuse.

§2134. Petition

A. A petition filed under the provisions of this Part shall contain the following:

(1) The name of each petitioner and each person on whose behalf the petition is filed, and the name, address, and parish of residence of each individual alleged to have committed domestic abuse, if known; if the petition is being filed on behalf of a child or person alleged to be incompetent, the relationship between that person and the petitioner.

(2) The facts and circumstances concerning the alleged domestic abuse.

(3) The relationship between each petitioner and each individual alleged to have committed domestic abuse.

* * *

C. If the petition requests a protective order for a spouse and alleges that the other spouse has committed domestic abuse, the petition shall state whether a suit for divorce is pending.

* * *

§2135. Temporary restraining order

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from domestic abuse the petitioner, any minor children, or any person alleged to be an

1 incompetent. ~~Any person who shows immediate and present danger of~~ A showing
2 of domestic abuse shall constitute good cause for purposes of this Subsection. The
3 court shall consider any and all past history of domestic abuse, or threats thereof, in
4 determining the existence of ~~an immediate and present danger of~~ abuse. There is no
5 requirement that the abuse itself be recent, immediate, or present. The order may
6 include but is not limited to the following:

7 * * *

8 B. If a temporary restraining order is granted without notice, the matter shall
9 be set within twenty-one days for a rule to show cause why the protective order
10 should not be issued, at which time the petitioner ~~must~~ shall prove the allegations of
11 domestic abuse by a preponderance of the evidence. The defendant shall be given
12 notice of the temporary restraining order and the hearing on the rule to show cause
13 by service of process as required by law within twenty-four hours ~~of~~ after the
14 issuance of the order.

15 * * *

16 D. If no temporary restraining order has been granted, the court shall issue
17 a rule to show cause why the protective order should not be issued, and set the rule
18 for hearing on the earliest day that the business of the court will permit, but in any
19 case within ten days from the date of service of the petition, at which time the
20 petitioner ~~must~~ shall prove the allegations of domestic abuse by a preponderance of
21 the evidence. The defendant shall be given notice by service of process as required
22 by law.

23 * * *

24 §2136. Protective orders; content; modification; service

25 A. The court may grant any protective order or approve any consent
26 agreement to bring about a cessation of domestic abuse ~~as defined in R.S. 46:2132,~~
27 ~~or the threat or danger thereof, to a party, any minor children, or any person alleged~~
28 ~~to be incompetent~~, which relief may include but is not limited to:

29 * * *

1 §2136.1. Costs paid by abuser

2 A. All court costs, attorney fees, costs of enforcement and modification
3 proceedings, costs of appeal, evaluation fees, and expert witness fees incurred in
4 maintaining or defending any proceeding concerning domestic abuse assistance in
5 accordance with the provisions of this Part shall be paid by the perpetrator of the
6 domestic ~~violence~~ abuse, including all costs of medical and psychological care for
7 the ~~abused adult~~ victim of the domestic abuse, or for any of the children, necessitated
8 by the domestic ~~violence~~ abuse.

9 * * *

10 §2136.2. Louisiana Protective Order Registry

11 A. In order to provide a statewide registry for abuse prevention orders to
12 prevent domestic abuse, ~~dating violence~~, stalking, and sexual assault and to aid law
13 enforcement, prosecutors, and the courts in handling such matters, there shall be
14 created a Louisiana Protective Order Registry administered by the judicial
15 administrator's office, Louisiana Supreme Court. The judicial administrator's office
16 shall collect the data transmitted to it from the courts, law enforcement, and private
17 process servers of the state and enter it into the Louisiana Protective Order Registry
18 as expeditiously as possible.

19 B. The Louisiana Protective Order Registry encompasses temporary
20 restraining orders, protective orders, preliminary injunctions, permanent injunctions,
21 and court-approved consent agreements resulting from actions brought pursuant to
22 R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., R.S. 46:2181 et seq., R.S.
23 9:361 et seq., R.S. 9:372, Children's Code Article 1564 et seq., Code of Civil
24 Procedure Article 3607.1, or peace bonds pursuant to Code of Criminal Procedure
25 Article 30(B), or as part of the disposition, sentence, or bail condition of a criminal
26 matter pursuant to Code of Criminal Procedure ~~Articles 327.1, 335.1, 335.2, or~~
27 Articles 320 and 871.1 as long as such order is issued for the purpose of preventing
28 violent or threatening acts or harassment against, contact or communication with, or

1 physical proximity to, another person to prevent domestic abuse, stalking, ~~dating~~
2 ~~violence~~, or sexual assault.

3 * * *

4 §2136.3. Prohibition on the possession of firearms by a person against whom a
5 protective order is issued

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

13 * * *

14 §2138. Assistance; clerk of court; domestic abuse advocate

15 * * *

16 C. For purposes of this Section, "domestic abuse advocate" means an
17 employee or representative of a community based shelter providing services to
18 victims of ~~family violence~~ or domestic abuse.

19 * * *

20 §2140. Law enforcement officers; duties

21 A. If a law enforcement officer has reason to believe that ~~a family or~~
22 ~~household member or dating partner has been abused~~ domestic abuse has occurred
23 and the abusing party is in violation of a temporary restraining order, a preliminary
24 or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq.,
25 R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., Children's Code
26 Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of
27 Criminal Procedure Articles 30, 320, ~~327.1~~, ~~335.1~~, ~~335.2~~, and 871.1, the officer shall
28 immediately arrest the abusing party.

1 B. If a law enforcement officer has reason to believe that ~~a family or~~
2 ~~household member or dating partner has been abused~~ domestic abuse has occurred,
3 and the abusing party is not in violation of a temporary restraining order, a
4 preliminary or permanent injunction, or a protective order, the officer shall
5 immediately use all reasonable means to prevent further abuse, including:

6 * * *

7 (4) Notifying the abused person of his right to initiate criminal or civil
8 proceedings; the availability of the protective order, R.S. 46:2136; and the
9 availability of community assistance for domestic ~~violence~~ abuse victims.

10 C.(1) When a law enforcement officer receives conflicting accounts of
11 domestic abuse ~~or dating violence~~, the officer shall evaluate each account separately
12 to determine if one party was the predominant aggressor.

13 (2) In determining if one party is the predominant aggressor, the law
14 enforcement officer may consider any other relevant factors, but shall consider the
15 following factors based upon ~~his or her~~ observation:

16 * * *

17 (e) Prior complaints of domestic abuse ~~or dating violence~~, if that history can
18 be reasonably ascertained by the officer.

19 * * *

20 (g) The existence of a temporary restraining order, a preliminary or
21 permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S.
22 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., Children's Code
23 Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of
24 Criminal Procedure Articles 30, 320, ~~327.1, 335.1, 335.2~~, and 871.1. The officer
25 shall presume that the predominant aggressor is the person against whom the order
26 was issued.

27 (3)

28 * * *

(b) If the officer determines that one person was the predominant aggressor in a misdemeanor offense, the officer shall arrest the predominant aggressor if there is reason to believe that there is impending danger or if the predominant aggressor is in violation of a temporary restraining order, a preliminary or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., ~~R.S. 46:2151~~, R.S. 46:2171 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 320, ~~327.1~~, ~~335.1~~, ~~335.2~~, and 871.1. If there is no threat of impending danger or no violation of a temporary restraining order, a preliminary or permanent injunction, or a protective order, the officer may arrest the predominant aggressor at the officer's discretion, whether or not the offense occurred in the presence of the officer. An arrest pursuant to the provisions of this Subparagraph shall be subject to the laws governing arrest, including the need for probable cause as otherwise provided by law. The exceptions provided for in this Section shall apply.

* * *

§2143. Use of electronic monitoring of ~~offenders~~ abusers; pilot program

A. When a court issues any peace bond, temporary restraining order, protective order, preliminary injunction, permanent injunction or court-approved consent agreements pursuant to R.S. 46:2131 et seq., R.S. 9:361 et seq., R.S. 9:372 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Article 3604, or as part of the disposition, sentence, or bail condition of a criminal matter pursuant to Code of Criminal Procedure ~~Articles 327.1 or~~ Articles 320 and 871.1 for the purpose of preventing acts of domestic ~~violence~~ abuse, the court may also order the ~~domestic violence offender~~ abuser to participate in an electronic monitoring program. However, the use of electronic monitoring equipment shall be used only if the domestic abuse victim has consented to its use.

B. The court shall specify the terms of the electronic monitoring program, which shall include but is not limited to the following requirements:

(1) The device shall alert the domestic ~~violence~~ abuse victim and the appropriate law enforcement agency when the domestic ~~violence~~ offender abuser is within a certain distance of the protected person or protected premises, as ordered by the court. The court issuing the order shall be notified of the violation of the order by the local law enforcement agency within twenty-four hours.

(2) The device shall be worn at all times by the domestic violence offender abuser.

(3) Equipment shall be installed or placed in the home of the ~~offender~~ abuser to monitor ~~the compliance of the offender~~ compliance.

(4) The ~~offender~~ abuser shall be placed under the supervision of the Department of Public Safety and Corrections, or the court in misdemeanor cases, for the purposes of monitoring.

C. The cost of electronic monitoring shall be paid by the ~~domestic violence~~ offender abuser.

* * *

Section 18. R.S. 9:341 and R.S. 46:1844(W)(5)(d), 2121.1, 2140(C)(4) and 2151 are hereby repealed in their entirety.

Section 19. The Louisiana State Law Institute is hereby authorized and directed to add the following comment below the text of Civil Code Article 104:

Revision Comments - 2021

In the domestic abuse context in particular, reconciliation is to be carefully evaluated with a view toward appreciating potentially responsive actions by victims of domestic abuse. Because reconciliation is a juridical act, it may be conditional (and the condition may fail, as in *Tablada v. Tablada*, 590 So. 2d 1357 (La. App. 5th Cir. 1991)) and it may be affected by vices of consent, including fraud and duress. See 2 Marcel Planiol & Georges Ripert, *Traité Pratique de Droit Civil Français: La Famille* n° 534, at 414-15 (André Rouast rev., 1952) and Gabriel García Cantero, *El Vinculo De Matrimonio Civil en El Derecho Español* 298 (1959) (describing reconciliation as a juridical act). Further, in order to resume the marital relationship, the parties must have mutual intent to reconcile. Mutual intent must include the motivation and intention of each party to restore and renew the marital relationship. *Woods v. Woods*, 660 So. 2d 134 (La. App. 2d Cir. 1995).

Section 20. The Louisiana State Law Institute shall place R.S. 9:364(D) and (E) in alphabetical order.

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)]

HB 159 Reengrossed

2021 Regular Session

White

Abstract: Provides for a single civil definition of domestic abuse.

Present law provides over 50 piecemeal provisions of law relative to domestic violence and family violence.

Proposed law provides a consistent and comprehensive definition of "domestic abuse" through all areas of civil law which includes both physical manifestations of abuse and patterns of assaultive or coercive behaviors, including but not limited to physical, sexual, and psychological threats and attacks and financial control.

Present law (C.C. Art. 103) provides for the granting of a divorce upon proof of physical or sexual abuse of a spouse or child of the spouse.

Proposed law provides for the granting of a divorce upon proof of domestic abuse.

Present law (C.C. Art. 112) requires the court to consider the existence, effect, and duration of domestic abuse in the determination of spousal support.

Proposed law retains present law and updates terminology.

Present law (C.C. Art. 134) requires the court to consider certain factors in determining the best interest of the child before making custody and visitation determinations.

Proposed law conforms the factors to the civil definition of domestic abuse and elevates the importance of those factors without excluding any other factor. Proposed law also refers the court to the Post-Separation Domestic Abuse Relief Act.

Present law (C.C. Art. 136) provides for the awarding of visitation when a parent is not granted custody.

Proposed law changes a cross-reference and adds a new factor relative to abuse to be considered.

Proposed law (C.C. Art. 162) defines "domestic abuse" to include a single act or a pattern of behavior, including physical abuse, coercion, control, punishment, intimidation, or exacting revenge upon, committed by one family member, current or former household member, or dating partner against another.

Present law (C.C. Arts. 2315.8 and 2362.1) provides liability for damages caused by domestic abuse and creates a separate obligation for the payment of attorney fees and costs incurred by a spouse who commits domestic abuse.

Proposed law retains present law, deletes an obsolete cross-reference, and updates terminology.

Present law (C.C.P. Arts. 891, 3603.1, 3604, 3607.1, 3610, and 3945) provides for the form of a petition and for the form, registry, and security for a temporary restraining order or preliminary injunction involving domestic violence.

Proposed law retains present law and updates cross-references and terminology.

Present law (Ch.C. Art. 652) provides for the confidentiality of certain identifying information regarding a victim of domestic abuse.

Proposed law retains present law and updates cross-references and terminology.

Present law (Ch.C. Arts. 1564-1573) provides, through a Domestic Abuse Assistance Act, a civil remedy in the juvenile courts for domestic abuse in homes where children reside.

Present law provides for definitions, venue, form of the petition, temporary restraining orders and protective orders, costs, and law enforcement duties.

Proposed law provides a cross-reference to the Civil Code definition of "domestic abuse" and updates corresponding terminology.

Present law (C.E. Art. 412.5) provides for the admissibility of evidence of similar crimes, wrongs, or acts in civil cases.

Proposed law retains present law and updates cross-references and terminology.

Present law (C.Cr.P. Arts. 313, 320, 321, 893, 895, 899.2, 900, 1001, and 1002) provides for bail, suspension of sentence, probation, and the transfer of firearms in domestic violence cases.

Proposed law retains present law, provides a cross-reference to the Civil Code definition of "domestic abuse", and updates corresponding terminology and cross-references.

Present law (R.S. 9:314) permits a court to assess attorney fees and court costs against a person who commits domestic abuse.

Proposed law requires the court to assess attorney fees and court costs against a person who commits domestic abuse.

Present law (R.S. 9:345, 355.2, 358.2, 358.3, and 359.13) provides for the appointment of an attorney in child custody and visitation proceedings, the relocation of the residence of a child, parenting coordinators, and the Military Parent and Child Custody Protection Act.

Proposed law retains present law and updates cross-references and terminology.

Present law (R.S. 9:361-369) provides for the Post-Separation Family Violence Relief Act.

Proposed law renames the Act the "Post-Separation Domestic Abuse Relief Act," provides a cross-reference to the Civil Code definition of "domestic abuse," updates corresponding terminology and cross-references, and clarifies the presumption that a parent who has committed domestic abuse shall not be awarded joint or sole custody.

Present law (R.S. 9:372, 2603, 2800.9, 3261.1, and 4103) provides for injunctions, the Louisiana Uniform Electronic Transactions Act, actions against a person for the abuse of a minor, lease agreements, and the referral of cases for mediation.

Proposed law retains present law and updates cross-references and terminology.

Present law (R.S. 13:621.21, 621.22, 721, 1802, 1819, 1821, 1830, 1852, 1856, 1857, 1858, 1859, 2106, and 5304) provides for jurisdiction of courts, powers of commissioners, the Uniform Child Custody Jurisdiction and Enforcement Act, the Uniform International Child Abduction Prevention Act, the collection of a nonrefundable fee in certain cases in city court, and drug division probation programs.

Proposed law retains present law, provides a cross-reference to the Civil Code definition of "domestic abuse", and updates corresponding terminology and cross-references.

Present law (R.S. 14:79) provides for the violation of protective orders.

Proposed law retains present law and updates cross-references.

Present law (R.S. 15:257.1, 574.7, 574.9, and 587.8) provides an exception for material witness warrants for certain victims, violations of parole, and access to criminal history.

Proposed law retains present law and updates cross-references and terminology.

Present law (R.S. 17:7.2) establishes qualifications and requirements for teacher education programs.

Proposed law retains present law and updates terminology.

Present law (R.S. 22:1063 and 1078) prohibits insurance discrimination against certain persons including victims of domestic violence.

Proposed law retains present law, provides a cross-reference to the Civil Code definition of "domestic abuse", and updates corresponding terminology.

Present law (R.S. 33:9701) ensures access to emergency services for victims of domestic abuse.

Proposed law retains present law and provides a cross-reference to the Civil Code definition of "domestic abuse."

Present law (R.S. 37:2554) provides for the qualifications of short hand reporters and the use of electronic or audio recordings in hearings related to abuse.

Proposed law retains present law and updates cross-references.

Present law (R.S. 39:1619) provides for social services contracts.

Proposed law retains present law and updates terminology.

Present law (R.S. 40:506, 1379.3.2, 2405.8, and 2533) provides for housing authorities, concealed handgun permits, peace officer training requirements, and the rights of law enforcement officers while under investigation.

Proposed law retains present law, provides a cross-reference to the Civil Code definition of "domestic abuse", and updates corresponding terminology and additional cross-references.

Present law (R.S. 44:3) provides for the disclosure of public records.

Proposed law deletes definitions of "family member," "household member," and "dating partner" and updates cross-references.

Present law (R.S. 46:52.1, 236.5, 236.10, 1842, 1844, 1845, 1846, and 1861) provides for certain programs administered by the Department of Children and Family Services, rights of victims and witnesses of crime, and family justice centers.

Proposed law retains present law and updates corresponding terminology and cross-references.

Present law (R.S. 46:2131-2143) provides for the Domestic Abuse Assistance Act.

Proposed law defines "domestic abuse" to include a single act or a pattern of behavior, including physical abuse, coercion, control, punishment, intimidation, or exacting revenge upon, committed by one family member, current or former household member, or dating partner against another.

Proposed law also updates corresponding terminology and cross-references throughout the Act.

Present law (R.S. 9:341) provides restrictions on visitation whenever the court finds by a preponderance of the evidence that a parent has subjected any of his children or stepchildren to family violence.

Proposed law repeals present law but moves the provisions relative to supervised visitation when a parent has subjected his children to domestic abuse to R.S. 9:364 in the Post-Separation Domestic Abuse Relief Act.

Present law (R.S. 46:1844) cross-references existing definitions of "family member," "household member," and "dating partner".

Proposed law deletes present law.

Present law (R.S. 46:2121.1) defines "family or household members," "family violence," and "victim of family violence".

Proposed law repeals present law.

Present law (R.S. 46:2140) defines "dating violence," and "domestic abuse".

Proposed law repeals present law.

Present law (R.S. 46:2151) provides for the Protection From Dating Violence Act and defines "dating partner."

Proposed law repeals present law but includes dating partners within the definition of "domestic abuse" and in the Domestic Abuse Assistance Act.

Present law (C.C. Art. 104) provides for the extinguishment of a cause of action for divorce when the parties reconcile.

Proposed law provides a Comment explaining that a reconciliation in the domestic abuse context should be carefully considered because the necessary mutual intent to reconcile may not be present.

(Amends C.C. Arts. 103(4) and (5), 112(B)(9), 134, 136(A), the heading of Title VI of Book I, and C.C. Arts. 2315.8(A) and 2362.1(B), C.C.P. Arts. 891(B), 3603.1(A) and (C)(1), 3604(C)(1), 3607.1, 3610, and 3945(G), Ch.C. Arts. 652(E)(2), 1564, 1565, 1566(C), 1567(A)(3) and (B), 1568(A)(1), (3), and (4) and (C), 1569(A)(intro. para.), (B), and (D), 1570(A)(intro. para.), 1570.1(A), and 1573(intro. para.) and (4), C.E. Art. 412.5(A), C.Cr.P. Arts. 313(A)(2), 320(G)(1), 321(C)(19), 893(A)(2), 895(M)(1), 899.2(D)(5) and (6), 900(A)(6)(d)(iii), the heading of Title XXXV, and C.Cr.P. Arts. 1001(1), (2), and (4), and 1002(A)(2)(a), R.S. 9:314, 345(B), 355.2(D)(2), 358.2, 358.3(B)(8), 359.13, the heading of Part IV of Chapter 1 of Code Title V of Title 9, and R.S. 9:361, 362(1), (3)(c), (4), (5), (6), and (7), 363, 364, 365, 366(A), 367, 369, 372(A) and (C), 2603(B)(4)(a), 2800.9(A), 3261.1(B)(2) and (C)(2), and 4103(B)(1), R.S. 13:621.21(B)(2) and (C)(2), 621.22(B)(3), 721(E)(2)(I), 1802(4), 1819(B)(1), 1821(A)(2), 1830(B)(3), 1852(4), 1856(4) and (5), 1857(A)(4), 1858(B), 1859(D), 2106(B), and 5304(B)(10)(intro. para.) and (b), R.S. 14:79(A)(1)(a) and (E), R.S. 15:257.1(C)(1)(c), 574.7(C)(2)(a)(x) and (4)(e) and (f), 574.9(H)(2)(c), 587.8(A) and (B)(3)(intro. para.), (a), (b), and (d) and (7), R.S. 17:7.2(A)(6),

R.S. 22:1063(A)(1)(g) and 1078(A), R.S. 33:9701(C)(2), R.S. 37:2554(B)(2)(b), R.S. 39:1619(A)(3)(intro. para.), (a), (f), and (g), R.S. 40:506(D), 1379.3.2(A), 2405.8(E)(1)(intro. para.), (a), and (g) and (2) and (I)(3)(a)(i) and (b) and 2533(C)(1), R.S. 44:3(A)(6) and (J)(3), and R.S. 46:52.1(F)(3)(a)(v), 236.5(C)(1) and (3)(k), 236.10(C)(2)(d)(i), 1842(15)(d), 1844(C)(2), 1845(C)(2), 1846(A) and (C), 1861(A)(1)(a), 2131, 2132(3) and (4), 2133(B)(3) and (D), 2134(A)(1), (2), and (3) and (C), 2135(A)(intro. para.), (B), and (D), 2136(A)(intro. para.), 2136.1(A), 2136.2(A) and (B), 2136.3(A)(intro. para.), 2138(C), 2140(A), (B)(intro. para.) and (4), (C)(1), (2)(intro. para.), (e), and (g), and (3)(b), and 2143(A), (B), and (C); Adds C.C. Arts. 136(D)(6) and 162; Repeals R.S. 9:341 and R.S. 46:1844(W)(5)(d), 2121.1, 2140(C)(4), and 2151)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Add a cross-reference to a provision regarding conditions of bail undertaking.