

ACT No. 90

2017 Regular Session

HOUSE BILL NO. 509

BY REPRESENTATIVE SCHRODER

1 AN ACT

2 To amend and reenact R.S. 14:79(A)(1)(a), (B), and (C) and Code of Criminal Procedure
3 Article 320(G), relative to the issuance and violation of protective orders; to provide
4 for penalties for violations of temporary restraining orders; to provide relative to the
5 issuance of protective orders and the prohibition on communication and contact as
6 conditions of release on bail for certain offenses; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:79(A)(1)(a), (B), and (C) are hereby amended and reenacted to
9 read as follows:

10 §79. Violation of protective orders

11 A.(1)(a) Violation of protective orders is the willful disobedience of a
12 preliminary or permanent injunction or protective order issued pursuant to R.S. 9:361
13 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S.
14 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure
15 Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 320, ~~327.1~~, ~~335.1~~,
16 ~~335.2~~, and 871.1 after a contradictory court hearing, or the willful disobedience of
17 a temporary restraining order or any ex parte protective order issued pursuant to R.S.
18 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq.,
19 criminal stay-away orders as provided for in Code of Criminal Procedure Articles
20 320, ~~327.1~~, ~~335.1~~, ~~335.2~~, Children's Code Article 1564 et seq., or Code of Civil
21 Procedure Articles 3604 and 3607.1, if the defendant has been given notice of the

1 temporary restraining order or ex parte protective order by service of process as
2 required by law.

3 * * *

4 B.(1) On a first conviction for violation of protective orders which does not
5 involve a battery or any crime of violence as defined by R.S. 14:2(B) against the
6 person protected by the protective order, the offender shall be fined not more than
7 five hundred dollars or imprisoned for not more than six months, or both.

8 ~~(2) On a second conviction for violation of protective orders which does not
9 involve a battery or any crime of violence as defined by R.S. 14:2(B) against the
10 person protected by the protective order, regardless of whether the second offense
11 occurred before or after the first conviction, the offender shall be fined not more than
12 one thousand dollars and imprisoned for not less than forty-eight hours nor more
13 than six months. At least forty-eight hours of the sentence of imprisonment imposed
14 under this Paragraph shall be without benefit of probation, parole, or suspension of
15 sentence. If a portion of the sentence is imposed with benefit of probation, parole,
16 or suspension of sentence, the court shall require the offender to participate in a
17 court-monitored domestic abuse intervention program as defined by R.S. 14:35.3.~~

18 ~~(3)~~(2) On a ~~third~~ second or subsequent conviction for violation of protective
19 orders which does not involve a battery or any crime of violence as defined by R.S.
20 14:2(B) against the person protected by the protective order, regardless of whether
21 the current offense occurred before or after the earlier convictions, the offender shall
22 be fined not more than one thousand dollars and imprisoned with or without hard
23 labor for not less than fourteen days nor more than two years. At least fourteen days
24 of the sentence of imprisonment imposed under this Paragraph shall be without
25 benefit of probation, parole, or suspension of sentence. If a portion of the sentence
26 is imposed with benefit of probation, parole, or suspension of sentence, the court
27 shall require the offender to participate in a court-monitored domestic abuse
28 intervention program as defined by R.S. 14:35.3.

29 C.(1) ~~Whoever is convicted of the offense of violation of protective orders
30 where the violation involves a battery or any crime of violence as defined by R.S.~~

1 ~~14:2(B) against the person protected by the protective order, and who has not been~~
 2 ~~convicted of violating a protective order or of an assault or battery upon the person~~
 3 ~~protected by the protective order within the five years prior to commission of the~~
 4 ~~instant offense, shall be fined not more than five hundred dollars and imprisoned for~~
 5 ~~not less than fourteen days nor more than six months. At least fourteen days of the~~
 6 ~~sentence of imprisonment imposed under this Paragraph shall be without benefit of~~
 7 ~~probation, parole, or suspension of sentence. If a portion of the sentence is imposed~~
 8 ~~with benefit of probation, parole, or suspension of sentence, the court shall require~~
 9 ~~the offender to participate in a court-monitored domestic abuse intervention program~~
 10 ~~as defined by R.S. 14:35.3 as part of that probation.~~

11 ~~(2)~~(1) Whoever is convicted of the offense of violation of protective orders
 12 where the violation involves a battery or any crime of violence as defined by R.S.
 13 14:2(B) against the person for whose benefit the protective order is in effect, ~~and~~
 14 ~~who has been convicted not more than one time of violating a protective order or of~~
 15 ~~an assault or battery upon the person for whose benefit the protective order is in~~
 16 ~~effect within the five-year period prior to commission of the instant offense,~~
 17 ~~regardless of whether the instant offense occurred before or after the earlier~~
 18 ~~convictions,~~ shall be fined not more than one thousand dollars and imprisoned with
 19 or without hard labor for not less than three months nor more than two years. At
 20 least thirty days of the sentence of imprisonment imposed under this Paragraph shall
 21 be without benefit of probation, parole, or suspension of sentence. If a portion of the
 22 sentence is imposed with benefit of probation, parole, or suspension of sentence, the
 23 court shall require the offender to participate in a court-monitored domestic abuse
 24 intervention program as defined by R.S. 14:35.3.

25 ~~(3)~~(2) Whoever is convicted of the offense of violation of protective orders
 26 where the violation involves a battery or any crime of violence as defined by R.S.
 27 14:2(B) against the person for whose benefit the protective order is in effect, and
 28 who has ~~more than one~~ a conviction of violating a protective order or of an assault
 29 or battery upon the person for whose benefit the protective order is in effect during
 30 the five-year period prior to commission of the instant offense, regardless of whether

1 the instant offense occurred before or after the earlier convictions, the offender shall
 2 be fined not more than two thousand dollars and imprisoned with or without hard
 3 labor for not less than one year nor more than five years. At least one year of the
 4 sentence of imprisonment imposed under this Paragraph shall be without benefit of
 5 probation, parole, or suspension of sentence.

* * *

7 Section 2. Code of Criminal Procedure Article 320(G) is hereby amended and
 8 reenacted to read as follows:

9 Art. 320. Conditions of bail undertaking

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11 G. Domestic offenses, stalking, and sex offenses. (1) In determining
 12 conditions of release of a defendant who is alleged to have committed an offense
 13 against the defendant's family or household member, as defined in R.S. 46:2132(4),
 14 or against the defendant's dating partner, as defined in R.S. 46:2151, or who is
 15 alleged to have committed the offense of domestic abuse battery under the provisions
 16 of R.S. 14:35.3, or who is alleged to have committed the offense of stalking under
 17 the provisions of R.S. 14:40.2, or who is alleged to have committed a sexual assault
 18 as defined in R.S. 46:2184, or who is alleged to have committed the offense of first
 19 degree rape under the provisions of R.S. 14:42, the court shall consider the previous
 20 criminal history of the defendant and whether the defendant poses a threat or danger
 21 to the victim. If the court determines that the defendant poses such a threat or
 22 danger, it shall require as a condition of bail that the defendant refrain from going
 23 to the residence or household of the victim, the victim's school, and the victim's place
 24 of employment or otherwise contacting the victim in any manner whatsoever, and
 25 shall refrain from having any further contact with the victim. The court shall also
 26 consider any statistical evidence prepared by the United States Department of Justice
 27 relative to the likelihood of such defendant or any person in general who has raped
 28 or molested victims under the age of thirteen years to commit sexual offenses against
 29 a victim under the age of thirteen in the future.

1 (2) If the defendant is alleged to have committed any of the offenses
 2 included in Paragraph (1) of this Subsection, the court may require as a condition of
 3 bail that the defendant be prohibited from communicating, by electronic
 4 communication, in writing, or orally, with a victim of the offense, or with any of the
 5 victim's immediate family members, while the case is pending. This condition does
 6 not apply if the victim consents in person or through a communication through the
 7 local prosecuting agency.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____