

Regular Session, 2014

HOUSE BILL NO. 753

BY REPRESENTATIVES MORENO, ADAMS, BADON, BARROW, BERTHELOT, BILLIOT, WESLEY BISHOP, BROSSETT, BROWN, HENRY BURNS, TIM BURNS, BURRELL, CHAMPAGNE, CONNICK, COX, DIXON, GAINES, GISCLAIR, GUILLORY, HARRIS, HARRISON, HAVARD, HENSGENS, HONORE, HOWARD, HUNTER, KATRINA JACKSON, JAMES, JEFFERSON, JONES, KLECKLEY, NANCY LANDRY, TERRY LANDRY, LEBAS, LEGER, LEOPOLD, LOPINTO, LORUSSO, MILLER, MONToucET, JAY MORRIS, PIERRE, POPE, PRICE, PYLANT, RITCHIE, SCHEXNAYDER, SMITH, ST. GERMAIN, THIBAUT, THIERRY, ALFRED WILLIAMS, PATRICK WILLIAMS, AND WOODRUFF AND SENATORS ALARIO, AMEDEE, APPEL, BROOME, BROWN, BUFFINGTON, CORTEZ, DONAHUE, DORSEY-COLOMB, GUILLORY, JOHNS, LAFLEUR, LONG, MARTINY, MILLS, MORRELL, MURRAY, NEVERS, PEACOCK, RISER, GARY SMITH, THOMPSON, WALSWORTH, AND WARD

1 AN ACT

2 To enact R.S. 14:95.10 and R.S. 46:2136.3, relative to the possession of firearms in
3 domestic abuse situations; to prohibit the possession of firearms or carrying of a
4 concealed weapon by persons convicted of domestic abuse battery; to prohibit the
5 possession of firearms by persons who are the subject of protective orders or
6 permanent injunctions involving domestic violence; to provide for penalties; to
7 provide for definitions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:95.10 is hereby enacted to read as follows:

10 §95.10. Possession of a firearm or carrying of a concealed weapon by a person
11 convicted of domestic abuse battery

12 A. It is unlawful for any person who has been convicted of the crime of
13 domestic abuse battery, R.S. 14:35.3, to possess a firearm or carry a concealed
14 weapon.

15 B. Whoever is found guilty of violating the provisions of this Section shall
16 be imprisoned with or without hard labor for not less than one year nor more than
17 five years and shall be fined not less than five hundred dollars nor more than one
18 thousand dollars.

1 C. A person shall not be considered to have been convicted of domestic
 2 abuse battery for purposes of this Section unless the person was represented by
 3 counsel in the case, or knowingly and intelligently waived the right to counsel in the
 4 case; and in the case of a prosecution for an offense described in this Section for
 5 which a person was entitled to a jury trial in the jurisdiction in which the case was
 6 tried, either the case was tried by a jury, or the person knowingly and intelligently
 7 waived the right to have the case tried by a jury, by guilty plea or otherwise. A
 8 person shall not be considered convicted of R.S. 14:35.3 for the purposes of this
 9 Section if the conviction has been expunged, set aside, or is an offense for which the
 10 person has been pardoned or had civil rights restored unless the pardon,
 11 expungement, or restoration of civil rights expressly provides that the person may
 12 not ship, possess, or receive firearms.

13 D. For the provisions of this Section, "firearm" means any pistol, revolver,
 14 rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle
 15 which is designed to fire or is capable of firing fixed cartridge ammunition or from
 16 which a shot or projectile is discharged by an explosive.

17 E. The provisions of this Section prohibiting the possession of firearms and
 18 carrying concealed weapons by persons who have been convicted of domestic abuse
 19 battery shall not apply to any person who has not been convicted of domestic abuse
 20 battery for a period of ten years from the date of completion of sentence, probation,
 21 parole, or suspension of sentence.

22 Section 2. R.S. 46:2136.3 is hereby enacted to read as follows:

23 §2136.3. Prohibition on the possession of firearms by a person against whom a
 24 protective order is issued

25 A. Any person against whom the court has issued a permanent injunction or
 26 a protective order pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372, R.S.
 27 46:2136 or 2151, Children's Code Article 1570, Code of Civil Procedure Article
 28 3607.1, or Code of Criminal Procedure Articles 30, 327.1, 335.2, or 871.1 shall be
 29 prohibited from possessing a firearm for the duration of the injunction or protective
 30 order if both of the following occur:

1 (1) The permanent injunction or protective order includes a finding that the
 2 person subject to the permanent injunction or protective order represents a credible
 3 threat to the physical safety of a family member or household member.

4 (2) The permanent injunction or protective order informs the person subject
 5 to the permanent injunction or protective order that the person is prohibited from
 6 possessing a firearm pursuant to the provisions of 18 U.S.C. 922(g)(8) and R.S.
 7 46:2136.3.

8 B. For the provisions of this Section, "firearm" means any pistol, revolver,
 9 rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle
 10 which is designed to fire or is capable of firing fixed cartridge ammunition or from
 11 which a shot or projectile is discharged by an explosive.

12 * * *

13 Section 3. The Judicial Administrator's Office of the Louisiana Supreme Court is
 14 hereby directed to amend each Uniform Abuse Prevention Order to include the specific
 15 language of R.S. 46:2136.3(A)(1) and (2), as enacted by the provisions of this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____