

Regular Session, 2014

HOUSE BILL NO. 753

BY REPRESENTATIVE MORENO

FAMILY VIOLENCE: Provides relative to the possession, forfeiture, and seizure of firearms as it relates to persons convicted of domestic abuse battery or subject to a protective order

1 AN ACT

2 To amend and reenact R.S. 14:95.1(A) and (C) and to enact R.S. 46:2136.3 and 2140(A)(5),
3 relative to the possession of firearms in domestic abuse situations; to prohibit the
4 possession of firearms or carrying of a concealed weapon by persons convicted of
5 domestic abuse battery; to prohibit the possession of firearms by persons who are the
6 subject of protective orders or permanent injunctions involving domestic violence;
7 to require that law enforcement officers seize firearms in certain circumstances; to
8 provide for definitions; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 14:95.1(A) and (C) are hereby amended and reenacted to read as
11 follows:

12 §95.1. Possession of firearm or carrying concealed weapon by a person convicted
13 of certain felonies offenses

14 A.(1) It is unlawful for any person who has been convicted of a crime of
15 violence as defined in R.S. 14:2(B) which is a felony or simple burglary, burglary
16 of a pharmacy, burglary of an inhabited dwelling, unauthorized entry of an inhabited
17 dwelling, felony illegal use of weapons or dangerous instrumentalities, manufacture
18 or possession of a delayed action incendiary device, manufacture or possession of
19 a bomb, or possession of a firearm while in the possession of or during the sale or

1 distribution of a controlled dangerous substance, or any violation of the Uniform
2 Controlled Dangerous Substances Law which is a felony, or any crime which is
3 defined as a sex offense in R.S. 15:541, or any crime defined as an attempt to
4 commit one of the above-enumerated offenses under the laws of this state, or who
5 has been convicted under the laws of any other state or of the United States or of any
6 foreign government or country of a crime which, if committed in this state, would
7 be one of the above-enumerated crimes, to possess a firearm or carry a concealed
8 weapon.

9 (2) It shall be unlawful for any person who is convicted of a violation of R.S.
10 14:35.3 on or after August 1, 2014, regardless of whether the offense is punishable
11 with or without hard labor, to possess a firearm or to carry a concealed weapon.

12 * * *

13 C. The provisions of this Section prohibiting the possession of firearms and
14 carrying concealed weapons by persons who have been convicted of certain felonies,
15 or a misdemeanor offense of domestic abuse battery shall not apply to any person
16 who has not been convicted of any felony or a misdemeanor offense of domestic
17 abuse battery for a period of ten years from the date of completion of sentence,
18 probation, parole, or suspension of sentence.

19 * * *

20 Section 2. R.S. 46:2136.3 and 2140(A)(5) are hereby enacted to read as follows:
21 §2136.3. Prohibition on the possession of firearms by a person against whom a
22 protective order is issued

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

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

5 * * *

6 §2140. Law enforcement officers; duties

7 A. Whenever a law enforcement officer has reason to believe that a family
 8 or household member or dating partner has been abused, the officer shall
 9 immediately use all reasonable means to prevent further abuse, including:

10 * * *

11 (5) Seizing any firearm possessed by the abusing party in the presence of the
 12 officer if the officer believes that there could be impending danger through the use
 13 of the firearm or if the abusing party is the subject of a protective order or permanent
 14 injunction and prohibited from possessing a firearm pursuant to the provisions of
 15 R.S. 40:2136.3. Any weapons seized pursuant to this Paragraph shall be returned to
 16 the owner upon expiration of the protective order or permanent injunction.

17 * * *

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)]

Moreno

HB No. 753

Abstract: Limits possession of firearms or carrying of concealed weapons in certain domestic abuse situations.

Present law prohibits the possession of a firearm or carrying of a concealed weapon by persons convicted of certain felony offenses.

Proposed law retains present law and adds convictions of misdemeanor domestic abuse battery.

Present law provides for protection from family violence and provides for services for victims of abuse and the duties of law enforcement officers regarding abuse situations.

Proposed law retains present law and requires law enforcement officers to seize firearms at the scene of an act of domestic violence if they believe there could be impending danger.

Proposed law provides that any person against whom the court has issued a permanent injunction or a protective order relative to domestic abuse shall be prohibited from possessing a firearm for the duration of the injunction or protective order.

(Amends R.S. 14:95.1(A) and (C); Adds R.S. 46:2136.3 and 2140(A)(5))