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HOUSE FLOOR AMENDMENTS

2017 Regular Session

Amendments proposed by Representative Moreno to Engrossed House Bill No. 223 by Representative Moreno

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete the remainder of the line, delete line 3 in its entirety,
3 and insert "R.S. 14:95.10(A), (C), and (E), R.S. 15:590(8), R.S. 46:2136.3(A)(introductory
4 paragraph) and (1) and 2151(B), Code"

5 AMENDMENT NO. 2

6 On page 1, line 4, after "412.4(A) and" and before the comma "," change "(D)(2) and (3)"
7 to "(D)"

8 AMENDMENT NO. 3

9 On page 1, line 5, after "enact" and before "and" delete "R.S. 14:35.3(B)(8)" and insert "R.S.
10 14:2(B)(47), 34.9, and 34.9.1"

11 AMENDMENT NO. 4

12 On page 1, line 7, after "partners;" delete the remainder of the line, delete line 8 in its
13 entirety, and insert the following:

14 "to provide relative to the definition of "dating partner"; to create the crimes
15 of battery of a dating partner and aggravated assault upon a dating partner;
16 to prohibit the possession of a firearm by persons convicted of certain
17 offenses of battery of a dating partner; to"

18 AMENDMENT NO. 5

19 On page 2, line 2, after "Section 1." delete the remainder of the line, delete line 3 in its
20 entirety, and insert the following:

21 "R.S. 14:95.10(A), (C), and (E) are hereby amended and reenacted and R.S.
22 14:2(B)(47), 34.9, and 34.9.1 are hereby enacted to read as"

23 AMENDMENT NO. 6

24 On page 2, delete lines 5 through 29 in their entirety

25 AMENDMENT NO. 7

26 On page 3, delete lines 1 through 22 in their entirety and insert the following:

27 "§2. Definitions

28 * * *

29 B. In this Code, "crime of violence" means an offense that has, as an
30 element, the use, attempted use, or threatened use of physical force against
31 the person or property of another, and that, by its very nature, involves a

1 substantial risk that physical force against the person or property of another
 2 may be used in the course of committing the offense or an offense that
 3 involves the possession or use of a dangerous weapon. The following
 4 enumerated offenses and attempts to commit any of them are included as
 5 "crimes of violence":

6 * * *
 7 (47) Aggravated assault upon a dating partner.

8 * * *
 9 §34.9. Battery of a dating partner

10 A. Battery of a dating partner is the intentional use of force or
 11 violence committed by one dating partner upon the person of another dating
 12 partner.

13 B. For purposes of this Section:

14 (1) "Burning" means an injury to flesh or skin caused by heat,
 15 electricity, friction, radiation, or any other chemical or thermal reaction.

16 (2) "Court-monitored domestic abuse intervention program" means
 17 a program, comprised of a minimum of twenty-six in-person sessions
 18 occurring over a minimum of twenty-six weeks, that follows a model
 19 designed specifically for perpetrators of domestic abuse. The offender's
 20 progress in the program shall be monitored by the court. The provider of the
 21 program shall have all of the following:

22 (a) Experience in working directly with perpetrators and victims of
 23 domestic abuse.

24 (b) Experience in facilitating batterer intervention groups.

25 (c) Training in the causes and dynamics of domestic violence,
 26 characteristics of batterers, victim safety, and sensitivity to victims.

27 (d) "Dating partner" means any person who is involved or has been
 28 involved in a sexual or intimate relationship with the offender characterized
 29 by the expectation of affectionate involvement independent of financial
 30 considerations, regardless of whether the person presently lives or formerly
 31 lived in the same residence with the offender. "Dating partner" shall not
 32 include a casual relationship or ordinary association between persons in a
 33 business or social context.

34 (4) "Serious bodily injury" means bodily injury that involves
 35 unconsciousness, extreme physical pain, or protracted and obvious
 36 disfigurement, or protracted loss or impairment of the function of a bodily
 37 member, organ, or mental faculty, or a substantial risk of death.

38 (5) "Strangulation" means intentionally impeding the normal
 39 breathing or circulation of the blood by applying pressure on the throat or
 40 neck or by blocking the nose or mouth of the victim.

41 C. On a first conviction, notwithstanding any other provision of law
 42 to the contrary, the offender shall be fined not less than three hundred dollars
 43 nor more than one thousand dollars and shall be imprisoned for not less than
 44 thirty days nor more than six months. At least forty-eight hours of the
 45 sentence imposed shall be served without benefit of parole, probation, or
 46 suspension of sentence. Imposition or execution of the remainder of the
 47 sentence shall not be suspended unless either of the following occurs:

48 (1) The offender is placed on probation with a minimum condition
 49 that he serve four days in jail and complete a court-monitored domestic abuse
 50 intervention program, and the offender shall not possess a firearm throughout
 51 the entirety of the sentence.

52 (2) The offender is placed on probation with a minimum condition
 53 that he perform eight, eight-hour days of court-approved community service
 54 activities and complete a court-monitored domestic abuse intervention
 55 program, and the offender shall not possess a firearm throughout the entirety
 56 of the sentence.

57 D. On a conviction of a second offense, notwithstanding any other
 58 provision of law to the contrary, regardless of whether the second offense
 59 occurred before or after the first conviction, the offender shall be fined not

1 less than seven hundred fifty dollars nor more than one thousand dollars and
 2 shall be imprisoned with or without hard labor for not less than sixty days nor
 3 more than one year. At least fourteen days of the sentence imposed shall be
 4 served without benefit of parole, probation, or suspension of sentence, and
 5 the offender shall be required to complete a court-monitored domestic abuse
 6 intervention program. Imposition or execution of the remainder of the
 7 sentence shall not be suspended unless either of the following occurs:

8 (1) The offender is placed on probation with a minimum condition
 9 that he serve thirty days in jail and complete a court-monitored domestic
 10 abuse intervention program, and the offender shall not possess a firearm
 11 throughout the entirety of the sentence.

12 (2) The offender is placed on probation with a minimum condition
 13 that he perform thirty eight-hour days of court-approved community service
 14 activities and complete a court-monitored domestic abuse intervention
 15 program, and the offender shall not possess a firearm throughout the entirety
 16 of the sentence.

17 E. On a conviction of a third offense, notwithstanding any other
 18 provision of law to the contrary and regardless of whether the offense
 19 occurred before or after an earlier conviction, the offender shall be
 20 imprisoned with or without hard labor for not less than one year nor more
 21 than five years and shall be fined two thousand dollars. The first year of the
 22 sentence of imprisonment shall be imposed without benefit of probation,
 23 parole, or suspension of sentence.

24 F.(1) Except as otherwise provided in Paragraph (2) of this
 25 Subsection, on a conviction of a fourth or subsequent offense,
 26 notwithstanding any other provision of law to the contrary and regardless of
 27 whether the fourth offense occurred before or after an earlier conviction, the
 28 offender shall be imprisoned with hard labor for not less than ten years nor
 29 more than thirty years and shall be fined five thousand dollars. The first
 30 three years of the sentence of imprisonment shall be imposed without benefit
 31 of probation, parole, or suspension of sentence.

32 (2) If the offender has previously received the benefit of suspension
 33 of sentence, probation, or parole as a fourth or subsequent offender, no part
 34 of the sentence may be imposed with benefit of suspension of sentence,
 35 probation, or parole, and no portion of the sentence shall be imposed
 36 concurrently with the remaining balance of any sentence to be served for a
 37 prior conviction for any offense.

38 G.(1) For purposes of determining whether an offender has a prior
 39 conviction for violation of this Section, a conviction under this Section, or a
 40 conviction under the laws of any state or an ordinance of a municipality,
 41 town, or similar political subdivision of another state which prohibits the
 42 intentional use of force or violence committed by one household member,
 43 family member, or dating partner upon another household member, family
 44 member, or dating partner shall constitute a prior conviction.

45 (2) For purposes of this Section, a prior conviction shall not include
 46 a conviction for an offense under this Section if the date of completion of
 47 sentence, probation, parole, or suspension of sentence is more than ten years
 48 prior to the commission of the crime with which the offender is charged, and
 49 such conviction shall not be considered in the assessment of penalties
 50 hereunder. However, periods of time during which the offender was
 51 incarcerated in a penal institution in this or any other state shall be excluded
 52 in computing the ten-year period.

53 H. An offender ordered to complete a court-monitored domestic
 54 abuse intervention program required by the provisions of this Section shall
 55 pay the cost incurred in participation in the program. Failure to make such
 56 payment shall subject the offender to revocation of probation, unless the
 57 court determines that the offender is unable to pay.

58 I. This Subsection shall be cited as the "Dating Partner Abuse Child
 59 Endangerment Law". When the state proves, in addition to the elements of

1 the crime as set forth in Subsection A of this Section, that a minor child
2 thirteen years of age or younger was present at the residence or any other
3 scene at the time of the commission of the offense, of the sentence imposed
4 by the court, the execution of the minimum mandatory sentence provided by
5 Subsection C or D of this Section, as appropriate, shall not be suspended, the
6 minimum mandatory sentence imposed under Subsection E of this Section
7 shall be two years without suspension of sentence, and the minimum
8 mandatory sentence imposed under Subsection F of this Section shall be four
9 years without suspension of sentence.

10 J. If the victim of the offense is pregnant and the offender knows that
11 the victim is pregnant at the time of the commission of the offense, the
12 offender, who is sentenced under the provisions of this Section, shall be
13 required to serve a minimum of forty-five days without benefit of suspension
14 of sentence for a first conviction, upon a second conviction shall serve a
15 minimum of one year imprisonment without benefit of suspension of
16 sentence, upon a third conviction shall serve a minimum of two years with
17 or without hard labor without benefit of probation, parole, or suspension of
18 sentence, and upon a fourth and subsequent offense shall serve a minimum
19 of four years at hard labor without benefit of probation, parole, or suspension
20 of sentence.

21 K. Notwithstanding any other provision of law to the contrary, if the
22 offense involves strangulation, the offender shall be imprisoned at hard labor
23 for not more than three years.

24 L. Notwithstanding any other provision of law to the contrary, if the
25 offense is committed by burning that results in serious bodily injury, the
26 offense shall be classified as a crime of violence, and the offender shall be
27 imprisoned at hard labor for not less than five nor more than fifty years
28 without benefit of probation, parole, or suspension of sentence.

29 §34.9.1. Aggravated assault upon a dating partner

30 A. Aggravated assault upon a dating partner is an assault with a
31 dangerous weapon committed by one dating partner upon another dating
32 partner.

33 B. For purposes of this Section, "dating partner" means any person
34 who is involved or has been involved in a sexual or intimate relationship with
35 the offender characterized by the expectation of affectionate involvement
36 independent of financial considerations, regardless of whether the person
37 presently lives or formerly lived in the same residence with the offender.
38 "Dating partner" shall not include a casual relationship or ordinary
39 association between persons in a business or social context.

40 C. Whoever commits the crime of aggravated assault upon a dating
41 partner shall be imprisoned at hard labor for not less than one year nor more
42 than five years and fined not more than five thousand dollars.

43 D. This Subsection shall be cited as the "Aggravated Assault Upon
44 a Dating Partner Child Endangerment Law". When the state proves, in
45 addition to the elements of the crime as set forth in Subsection A of this
46 Section, that a minor child thirteen years of age or younger was present at the
47 residence or any other scene at the time of the commission of the offense, the
48 mandatory minimum sentence imposed by the court shall be two years
49 imprisonment at hard labor without benefit of parole, probation, or
50 suspension of sentence.

51 * * *

52 §95.10. Possession of a firearm or carrying of a concealed weapon by a
53 person convicted of domestic abuse battery and certain offenses of
54 battery of a dating partner

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

- 58 (1) Domestic abuse battery (R.S. 14:35.3).

