

## **SUMMARY OF DOMESTIC VIOLENCE BILLS INTRODUCED BY REP. HELENA MORENO**

### **HB 747 – Domestic Abuse Battery**

The Louisiana legislature has previously found that thousands of persons in Louisiana are regularly beaten, tortured, and, in many cases, killed by spouses or persons with whom they are living in a primary relationship. The studies relied upon for these findings further indicate that victims of family violence come from all socioeconomic classes and ethnic groups, though it is the poor who suffer most from family violence, since it is less likely that they have immediate access to private counseling and shelter for themselves and their children. Children, though often not physically assaulted, suffer deep and lasting emotional effects, and it is most often the children of those parents who commit family violence that perpetuate the cycle by abusing their spouses. This bill adds “domestic abuse battery” and “domestic abuse aggravated assault” to crimes of violence in the Louisiana Criminal Code, prohibits release on one’s own recognizance for domestic abuse battery and violation of a protective order, and makes a second conviction of domestic abuse battery a felony punishable at hard labor for up to one year. Finally, this bill defines “court-approved domestic abuse intervention program” as one which is specifically designed for domestic abuse perpetrators and conducted by persons with demonstrable training and experience working with domestic violence victims and perpetrators.

### **HB 748 - Exemplary Damages**

In Louisiana, we have interspousal immunity which prohibits certain lawsuits between spouses. The right of action is suspended during the marriage. Following divorce, a spouse may bring an action in tort against a former spouse for any injurious act or acts occurring during the marriage. This bill authorizes the award of exemplary damages in lawsuits claiming injury caused by a family or household member through acts of domestic abuse regardless of whether the defendant was prosecuted for such acts. There are no acts more reprehensible than those which wantonly and recklessly disregard the safety of a family or household member. Acts of domestic abuse merit special consideration as torts because the elements of trust, physical proximity and emotional intimacy necessary to domestic relationships in a healthy society make participants in those relationships particularly vulnerable to abuse and produce mental and physical incapacities rendering victims unable to file suit. It is the purpose of this bill to enhance the civil remedies available to victims of domestic abuse in order to underscore society’s condemnation of these reprehensible acts, to ensure complete recovery to victims, and to impose significant financial consequences upon perpetrators.

### **HB 749 – “Immediate” Divorce**

Louisiana currently requires a 180 day waiting period before a divorce can be granted to a spouse physically or sexually abused by the other spouse or to a spouse who has successfully sought a protective order from abuse against the other spouse. Although our legislature has previously found that existing laws which regulate the dissolution of marriage do not adequately address problems of protecting and assisting the victims of domestic abuse, that the problems of family violence do not necessarily cease when the victimized family is legally separated and that, in fact, the violence often escalates following separation, the

waiting period has remained in place. This bill provides for an immediate divorce upon a finding of domestic abuse when proved by criminal conviction or an independent mental health evaluation. This bill further provides for interim spousal support to be awarded to the abused spouse for a minimum of 180 days following the divorce judgment and permits the award of lump sum final periodic support in excess of 1/3 of the abuser's net income to the abused spouse to avoid "monthly" support communications between the former spouses.

### **HB 750 – Protective Orders**

Current law requires clerks of court to transmit protective orders to the Louisiana Protective Order Registry no later than close of business the day following issuance by a judge. Transmittal by regular mail has put victims and law enforcement officers at great peril. This bill expedites transmittal to the state registry and to law enforcement agencies directly and electronically by judges on the same day the order was issued. This bill further requires that law enforcement officers immediately arrest a person in violation of a protective order and imposes penalties for any violation which involves a "crime of violence". This bill finally creates a rebuttable presumption that a person in violation of a protective order is the predominant aggressor to avoid arrest of the person protected.

### **HB 753 – Firearm Possession**

When enacting the Protection from Family Violence Act in 1979, the Louisiana Legislature found a definite correlation between family violence and marital homicide and declared a present and growing need to develop innovative strategies and services which would reduce and treat the trauma of family violence. Despite these efforts, Louisiana consistently leads the nation in domestic violence homicides with 74% committed with firearms. Federal law (Lautenberg Amendment/18 U.S.C. 922(g)) prohibits possession of a firearm by any person against whom a protective order is issued for the duration of that order and by any person convicted in any court of a misdemeanor crime of domestic violence. Louisiana recognized the Lautenberg Amendment in its concealed gun permit statute (La. R.S. 40:1379.3) which specifically prohibits qualification for a permit to anyone "ineligible to possess a firearm under 18 U.S.C. 922(g)". Inexplicably, the Legislature did not recognize this same federal law in La. R.S. 14:95.1 (unlawful possession of a firearm or carrying concealed weapon statute). This bill corrects this oversight by prohibiting firearm possession for the duration of a protective order (not a TRO) and prohibiting firearm possession for 10 years following conviction of domestic abuse battery as defined in La. R.S. 14:35.3 on or after August 1, 2014. This bill only applies to protective orders issued after a hearing before a judge where the defendant has had an opportunity to participate. This bill is more lenient than federal law which prohibits firearm possession for life or until expungement of a domestic violence conviction. Finally, this bill permits officers to confiscate firearms at a domestic violence scene if the abuser is subject to a protective order or if there is a threat of imminent danger.