

2017 Regular Session  
HOUSE BILL NO. 223

# ACT No. 84

BY REPRESENTATIVE MORENO AND SENATOR CLAITOR

1 AN ACT

2 To amend and reenact R.S. 14:95.10(A), (C), and (E), R.S. 15:590(8), R.S.  
3 46:2136.3(A)(introductory paragraph) and (1) and 2151(B), Code of Evidence  
4 Article 412(A) and (D), and Code of Criminal Procedure Article 387(A)(introductory  
5 paragraph) and to enact R.S. 14:2(B)(47), 34.9, and 34.9.1, relative to domestic  
6 abuse; to provide relative to acts of abuse involving dating partners; to provide  
7 relative to the definition of "dating partner"; to create the crimes of battery of a  
8 dating partner and aggravated assault upon a dating partner; to prohibit the  
9 possession of a firearm by persons convicted of certain offenses of battery of a dating  
10 partner; to add offenses of abuse involving dating partners to the types of offenses  
11 for which certain information is obtained upon arrest and conviction; to provide  
12 relative to the possession of firearms by persons subject to a permanent injunction  
13 or protective order for acts of abuse involving dating partners; to provide relative to  
14 admissibility of evidence of similar crimes, wrongs, or acts in cases of abuse  
15 involving dating partners; to provide relative to the information required when  
16 instituting the prosecution for an offense involving abuse against a dating partner;  
17 to provide definitions; and to provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. R.S. 14:95.10(A), (C), and (E) are hereby amended and reenacted and  
20 R.S. 14:2(B)(47), 34.9, and 34.9.1 are hereby enacted to read as follows:

21 §2. Definitions

22 \* \* \*

23 B. In this Code, "crime of violence" means an offense that has, as an  
24 element, the use, attempted use, or threatened use of physical force against the

2017 Regular Session  
HOUSE BILL NO. 244  
BY REPRESENTATIVE HILFERTY

# ACT No. 409

1 AN ACT

2 To enact Code of Evidence Article 902(11), relative to the admissibility of business records  
3 in criminal cases; to provide relative to the self-authentication of business records;  
4 and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Evidence Article 902(11) is hereby enacted to read as follows:

7 Art. 902. Self-authentication

8 Extrinsic evidence of authenticity as a condition precedent to admissibility  
9 is not required with respect to the following:

10 \* \* \*

11 (11) Certified records of a regularly conducted business activity in criminal  
12 cases. In criminal cases, the original or a copy of a record of a regularly conducted  
13 business activity that meets the requirements of Article 803(6), as shown by a  
14 certification of the custodian or another qualified person, and that complies with  
15 Louisiana law, including R.S. 13:3733 through 3733.2, or a rule prescribed by the

1            Louisiana Supreme Court. Before the trial or hearing, the proponent shall give an  
2            adverse party reasonable written notice of the intent to offer the record and shall  
3            make the record and certification available for inspection so that the party has a fair  
              opportunity to challenge it.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

1 person or property of another, and that, by its very nature, involves a substantial risk  
2 that physical force against the person or property of another may be used in the  
3 course of committing the offense or an offense that involves the possession or use  
4 of a dangerous weapon. The following enumerated offenses and attempts to commit  
5 any of them are included as "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 violence  
11 committed by one dating partner upon the person of another dating partner.

12 B. For purposes of this Section:

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

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

20 (a) Experience in working directly with perpetrators and victims of domestic  
21 abuse.

22 (b) Experience in facilitating batterer intervention groups.

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

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

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

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

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

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

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

23           D. On a conviction of a second offense, notwithstanding any other provision  
24           of law to the contrary and regardless of whether the second offense occurred before  
25           or after the first conviction, the offender shall be fined not less than seven hundred  
26           fifty dollars nor more than one thousand dollars and shall be imprisoned with or  
27           without hard labor for not less than sixty days nor more than one year. At least  
28           fourteen days of the sentence imposed shall be served without benefit of parole,  
29           probation, or suspension of sentence, and the offender shall be required to complete  
30           a court-monitored domestic abuse intervention program. Imposition or execution of

1           the remainder of the sentence shall not be suspended unless either of the following  
2           occurs:

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

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

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

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

24                  (2) If the offender has previously received the benefit of suspension of  
25                  sentence, probation, or parole as a fourth or subsequent offender, no part of the  
26                  sentence may be imposed with benefit of suspension of sentence, probation, or  
27                  parole, and no portion of the sentence shall be imposed concurrently with the  
28                  remaining balance of any sentence to be served for a prior conviction for any  
29                  offense.

1           G.(1) For purposes of determining whether an offender has a prior  
2           conviction for violation of this Section, a conviction under this Section, or a  
3           conviction under the laws of any state or an ordinance of a municipality, town, or  
4           similar political subdivision of another state which prohibits the intentional use of  
5           force or violence committed by one household member, family member, or dating  
6           partner upon another household member, family member, or dating partner shall  
7           constitute a prior conviction.

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

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

20          I. This Subsection shall be cited as the "Dating Partner Abuse Child  
21          Endangerment Law". When the state proves, in addition to the elements of the crime  
22          as set forth in Subsection A of this Section, that a minor child thirteen years of age  
23          or younger was present at the residence or any other scene at the time of the  
24          commission of the offense, of the sentence imposed by the court, the execution of the  
25          minimum mandatory sentence provided by Subsection C or D of this Section, as  
26          appropriate, shall not be suspended, the minimum mandatory sentence imposed  
27          under Subsection E of this Section shall be two years without suspension of sentence,  
28          and the minimum mandatory sentence imposed under Subsection F of this Section  
29          shall be four years without suspension of sentence.

1           J. If the victim of the offense is pregnant and the offender knows that the  
 2           victim is pregnant at the time of the commission of the offense, the offender, who is  
 3           sentenced under the provisions of this Section, shall be required to serve a minimum  
 4           of forty-five days without benefit of suspension of sentence for a first conviction,  
 5           upon a second conviction shall serve a minimum of one year imprisonment without  
 6           benefit of suspension of sentence, upon a third conviction shall serve a minimum of  
 7           two years with or without hard labor without benefit of probation, parole, or  
 8           suspension of sentence, and upon a fourth and subsequent offense shall serve a  
 9           minimum of four years at hard labor without benefit of probation, parole, or  
 10          suspension of sentence.

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

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

19          §34.9.1. Aggravated assault upon a dating partner

20           A. Aggravated assault upon a dating partner is an assault with a dangerous  
 21          weapon committed by one dating partner upon another dating partner.

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

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







1 Code Article 1570, Code of Civil Procedure Article 3607.1, or Code of Criminal  
2 Procedure Articles 30, ~~327.1, 335.1, 335.2~~ 320, or 871.1 shall be prohibited from  
3 possessing a firearm for the duration of the injunction or protective order if both of  
4 the following occur:

5 (1) The permanent injunction or protective order includes a finding that the  
6 person subject to the permanent injunction or protective order represents a credible  
7 threat to the physical safety of a family member, ~~or household member,~~ or dating  
8 partner.

9 \* \* \*

10 §2151. Dating violence

11 \* \* \*

12 B. For purposes of this Section, "dating partner" means any person who is  
13 involved or has been involved in a ~~social~~ sexual or intimate relationship ~~of a~~  
14 ~~romantic or intimate nature~~ with the offender characterized by the expectation of  
15 affectionate involvement independent of financial considerations, regardless of  
16 whether the person presently lives or formerly lived in the same residence with the  
17 offender. "Dating partner" shall not include a casual relationship or ordinary  
18 association between persons in a business or social context. ~~victim and where the~~  
19 ~~existence of such a relationship shall be determined based on a consideration of the~~  
20 ~~following factors:~~

21 (1) ~~The length of the relationship.~~

22 (2) ~~The type of relationship.~~

23 (3) ~~The frequency of interaction between the persons involved in the~~  
24 ~~relationship.~~

25 \* \* \*

26 Section 4. Code of Evidence Article 412.4(A) and (D) are hereby amended and  
27 reenacted to read as follows:

1 Art. 412.4. Evidence of similar crimes, wrongs, or acts in domestic abuse cases and  
2 cruelty against juveniles cases

3 A. When an accused is charged with a crime involving abusive behavior  
4 against a family member, household member, or dating partner or with acts which  
5 constitute cruelty involving a victim who was under the age of seventeen at the time  
6 of the offense, evidence of the accused's commission of another crime, wrong, or act  
7 involving assaultive behavior against a family member, ~~or~~ household member, or  
8 dating partner or acts which constitute cruelty involving a victim who was under the  
9 age of seventeen at the time of the offense, may be admissible and may be  
10 considered for its bearing on any matter to which it is relevant, subject to the  
11 balancing test provided in Article 403.

12 \* \* \*

13 D. For purposes of this Article:

14 (1) "Abusive behavior" means any behavior of the offender involving the use  
15 or threatened use of force against the person or property of a family member, ~~or~~  
16 household member, or dating partner of the alleged offender.

17 (2) "Dating partner" means any person who is involved or has been involved  
18 in a sexual or intimate relationship with the offender characterized by the expectation  
19 of affectionate involvement independent of financial considerations, regardless of  
20 whether the person presently lives or formerly lived in the same residence with the  
21 offender. "Dating partner" shall not include a casual relationship or ordinary  
22 association between persons in a business or social context.

23 ~~(2)~~(3) "Family member" means spouses, former spouses, parents and  
24 children, stepparents, stepchildren, foster parents, and foster children.

25 ~~(3)~~(4) "Household member" means any person having reached the age of  
26 majority presently or formerly living in the same residence with the offender as a  
27 spouse, whether married or not, or any child presently or formerly living in the same  
28 residence with the offender, or any child of the offender regardless of where the child  
29 resides.

