

Regular Session, 2013

HOUSE BILL NO. 311

BY REPRESENTATIVE KATRINA JACKSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/BATTERY: Provides relative to domestic abuse battery

1 AN ACT

2 To enact R.S. 14:2(B)(45) and 35.3(M), relative to domestic abuse battery; to amend
3 criminal penalties for domestic abuse battery in certain circumstances; to add
4 domestic abuse battery when committed under certain circumstances to the
5 enumerated listing of crimes of violence; to provide for definitions; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:2(B)(45) and 35.3(M) are hereby enacted to read as follows:

9 §2. Definitions

10 * * *

11 B. In this Code, "crime of violence" means an offense that has, as an
12 element, the use, attempted use, or threatened use of physical force against the
13 person or property of another, and that, by its very nature, involves a substantial risk
14 that physical force against the person or property of another may be used in the
15 course of committing the offense or an offense that involves the possession or use
16 of a dangerous weapon. The following enumerated offenses and attempts to commit
17 any of them are included as "crimes of violence":

18 * * *

19 (45) Domestic abuse battery when committed pursuant to R.S. 14:35.3(M).

20 * * *

1 §35.3. Domestic abuse battery

2 * * *

3 M.(1) Notwithstanding any provision of law to the contrary, if the domestic
4 abuse battery is committed by burning which results in serious bodily injury, the
5 offense shall be classified as a crime of violence and the offender shall be
6 imprisoned at hard labor for not less than five years nor more than fifty years without
7 benefit of probation, parole, or suspension of sentence.

8 (2) For purposes of this Subsection, "serious bodily injury" means bodily
9 injury which involves unconsciousness, extreme physical pain or protracted and
10 obvious disfigurement, or protracted loss or impairment of the function of a bodily
11 member, organ, or mental faculty, or a substantial risk of death.

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)]

Katrina Jackson

HB No. 311

Abstract: Provides for increased criminal penalties when domestic abuse battery is committed by burning the victim, and adds this offense to the list of crimes of violence.

Present law defines the crime of domestic abuse battery and provides for criminal penalties, including the following terms of imprisonment:

- (1) First offense - Imprisonment for 30 days - six months, with at least 48 hours to be served without benefit of probation, parole, or suspension of sentence.
- (2) Second offense - Imprisonment for 60 days - six months, with at least 14 days to be served without benefit of probation, parole, or suspension of sentence.
- (3) Third offense - Imprisonment for one to five years, with or without hard labor, with one year to be served without benefit of probation, parole, or suspension of sentence.
- (4) Fourth or subsequent offense - Imprisonment for 10 to 30 years, with three years to be served without benefit of probation, parole, or suspension of sentence.

Present law provides for increased penalties when the victim is pregnant at the time of the offense or when the offense involves strangulation.

Proposed law retains present law and provides that when the domestic abuse battery is committed by burning which results in serious bodily injury, the offender shall be imprisoned at hard labor for not less than five years nor more than 50 years without benefit of probation, parole, or suspension of sentence.

Present law provides that the following list of crimes be designated as "crimes of violence": solicitation for murder; first degree murder; second degree murder; manslaughter; aggravated battery; second degree battery; aggravated assault; mingling harmful substances; aggravated rape; forcible rape; simple rape; sexual battery; second degree sexual battery; intentional exposure to AIDS virus; aggravated kidnapping; second degree kidnapping; simple kidnapping; aggravated arson; aggravated criminal damage to property; aggravated burglary; armed robbery; first degree robbery; simple robbery; purse snatching; extortion; assault by drive-by shooting; aggravated crime against nature; carjacking; illegal use of weapons or dangerous instrumentalities; terrorism; aggravated second degree battery; aggravated assault upon a peace officer with a firearm; aggravated assault with a firearm; armed robbery involving use of firearm; second degree robbery; disarming of a peace officer; stalking; second degree cruelty to juveniles; aggravated flight from an officer; aggravated incest; and battery of a police officer; trafficking of children for sexual purposes; human trafficking; and home invasion.

Proposed law retains present law and adds the crime of domestic abuse battery when committed by burning the victim to the enumerated listing of crimes of violence.

(Adds R.S. 14:2(B)(45) and 35.3(M))