

2017 Regular Session

HOUSE BILL NO. 499

BY REPRESENTATIVE SCHRODER

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

CRIME: Provides relative to the crime of stalking

## 1 AN ACT

2 To amend and reenact R.S. 14:40.2(F)(1) and (G), relative to the crime of stalking; to  
3 provide relative to the issuance of protective orders against persons convicted of  
4 stalking; to provide relative to the exception to the crime of stalking for private  
5 investigators; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:40.2(F)(1) and (G) are hereby amended and reenacted to read as  
8 follows:

## 9 §40.2. Stalking

10 \* \* \*

11 F.(1)(a) Upon motion of the district attorney or on the court's own motion,  
12 whenever it is deemed appropriate for the protection of the victim, the court may, in  
13 addition to any penalties imposed pursuant to the provisions of this Section, grant a  
14 protective order which directs the defendant to refrain from abusing, harassing,  
15 interfering with the victim or the employment of the victim, or being physically  
16 present within a certain distance of the victim.

17 (b) For any defendant placed on probation for a violation of the provisions  
18 of this Section, the court shall, in addition to any penalties imposed pursuant to the  
19 provisions of this Section, grant a protective order which directs the defendant to

1 refrain from abusing, harassing, interfering with the victim or the employment of the  
2 victim, or being physically present within a certain distance of the victim.

3 \* \* \*

4                   G.(1) The Except as provided in Paragraph (2) of this Subsection, the  
5                   provisions of this Section shall not apply to a private investigator licensed pursuant  
6                   to the provisions of Chapter 56 of Title 37 of the Louisiana Revised Statutes of 1950,  
7                   acting during the course and scope of his employment and performing his duties  
8                   relative to the conducting of an investigation.

9                   (2) The exception provided in Paragraph (1) of this Subsection does not  
10                   apply if both of the following conditions apply:

11                   (a) The private investigator was retained by a person who is charged with an  
12                   offense involving sexual assault as defined by R.S. 46:2184 or who is subject to a  
13                   temporary restraining order or protective order obtained by a victim of sexual assault  
14                   pursuant to R.S. 46:2182 et seq.

15                    (b) The private investigator was retained for the purpose of harassing the  
16                    victim.

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)]

HB 499 Engrossed

2017 Regular Session

Schroder

**Abstract:** Requires the issuance of a protective order against persons placed on probation for a stalking conviction and provides relative to the exception for private investigators.

Present law (R.S. 14:40.2(A) and (B)) provides for the crime of stalking and provides criminal penalties for those who are convicted of the offense.

Present law further provides that upon motion of the district attorney or the court, the court may, in addition to any penalties imposed, issue a protective order that directs the defendant to refrain from abusing, harassing, interfering with the victim or the employment of the victim, or being physically present within a certain distance of the victim. The protective order shall be effective either for an indefinite period of time or for a fixed term which shall not exceed eighteen months.

Proposed law retains present law but requires the issuance of a protective order, with the same terms as provided by present law, when a defendant is placed on probation for the crime of stalking.

Present law (R.S. 14:40.2(G)) provides an exception to the crime of stalking for a private investigator licensed pursuant to present law, acting during the course and scope of his employment and performing his duties relative to the conducting of an investigation.

Proposed law provides that the present law exception to the crime of stalking for private investigators shall not apply if:

- (1) The private investigator was retained by a person who is charged with an offense involving sexual assault as defined by present law (R.S. 46:2184) or who is subject to a temporary restraining order or protective order obtained by a victim of sexual assault pursuant to present law (R.S. 46:2182 et seq.).
- (2) The private investigator was retained for the purpose of harassing the victim.

(Amends R.S. 14:40.2(F)(1) and (G))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Remove proposed changes to retain provisions of present law with regard to the discretionary granting of a protective order against a person convicted of stalking upon motion of the district attorney or court.
2. Add language that would require the issuance of a protective order, with the same terms as provided for by present law, if the defendant is placed on probation for a stalking conviction.
3. Provide that the present law exception for private investigators does not apply if the private investigator was retained for the purpose of harassing the victim by a person charged with an offense involving sexual assault or who is subject to a protective order or temporary restraining order obtained by a victim of sexual assault.