

2016 Regular Session

SENATE BILL NO. 162

BY SENATORS PETERSON AND MARTINY

DOMESTIC VIOLENCE. Provides relative to evidence admissible in certain civil actions involving domestic abuse and also provides relative to interspousal immunity. (8/1/16)

1 AN ACT  
2 To enact Code of Evidence Article 412.5 and to amend and reenact R.S. 9:291, relative to  
3 civil actions against spouses and other family members; to provide relative to  
4 evidence of certain crimes, wrongs, or acts in certain civil cases where acts of  
5 domestic abuse or other matters are alleged; to provide certain procedures; to provide  
6 relative to suits between spouses and interspousal immunity; and to provide for  
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Evidence Article 412.5 is hereby enacted to read as follows:

10 **Art. 412.5. Evidence of similar crimes, wrongs, or acts in certain civil cases**  
11 **A. In any civil action alleging acts of domestic abuse as defined in R.S.**  
12 **46:2132, domestic abuse battery, domestic abuse aggravated assault, sexually**  
13 **assaultive behavior, or acts that constitute a sex offense involving a victim who**  
14 **was under the age of seventeen at the time of the offense, evidence of the**  
15 **defendant's commission of a crime, wrong, or act involving acts of domestic**  
16 **abuse as defined in R.S. 46:2132, domestic abuse battery, domestic abuse**  
17 **aggravated assault, sexually assaultive behavior or acts that indicate a lustful**

1 disposition toward children, may be admissible and may be considered for its  
 2 bearing on any matter to which it is relevant subject to the balancing test  
 3 provided in Article 403.

4 B. In a case in which a plaintiff intends to offer evidence under the  
 5 provisions of this Article, the plaintiff shall provide reasonable notice in  
 6 advance of trial of the nature of any such evidence it intends to introduce at  
 7 trial for such purposes.

8 C. This Article shall not be construed to limit the admission or  
 9 consideration of evidence under any other rule.

10 Section 2. R.S. 9:291 is hereby amended and reenacted to read as follows:

11 §291. Suits between spouses

12 A. Spouses may not sue each other except for causes of action pertaining to  
 13 contracts or arising out of the provisions of Book III, Title VI of the Civil Code; for  
 14 restitution of separate property; for divorce or declaration of nullity of the marriage;  
 15 and for causes of action pertaining to spousal support or the support or custody of a  
 16 child while the spouses are living separate and apart.

17 B. The interspousal immunity created by this Section shall not be  
 18 construed to abrogate or modify any cause of action that one spouse might have  
 19 against the other. The effect of this Section is to bar the right of action that one  
 20 spouse has against the other, and prescription is suspended as between spouses  
 21 during the marriage.

22 C. A judgment of divorce places former spouses in the same situation  
 23 with respect to each other and any causes of action one spouse might have  
 24 against the other as if no marriage had ever been contracted between them.

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The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jerry G. Jones.

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constitute a sex offense involving a victim who was under the age of 17 at the time of the offense, evidence of the defendant's commission of a crime, wrong, or act involving domestic abuse, domestic abuse battery, domestic abuse aggravated assault, sexually assaultive behavior or acts that indicate a lustful disposition toward children may be admissible and may be considered for its bearing on any matter to which it is relevant subject to the balancing test provided in present law.

Proposed law provides that in a case in which a plaintiff intends to offer evidence under the provisions of proposed law, the plaintiff must provide reasonable notice in advance of trial of the nature of any such evidence it intends to introduce at trial for such purposes.

Proposed law cannot be construed to limit the admission or consideration of evidence under any other provision of present law.

Present law provides that spouses cannot sue each other except for causes of action pertaining to contracts or arising out of certain provisions of present law relative to restitution of separate property, divorce or declaration of nullity of the marriage, and causes of action pertaining to spousal support or the support or custody of a child while the spouses are living separate and apart.

Proposed law retains present law and adds that the interspousal immunity created by present law cannot be construed to abrogate or modify any cause of action that one spouse might have against the other. Proposed law further provides that the effect of present law is to bar the right of action that one spouse has against the other, and prescription is suspended as between spouses during the marriage. Proposed law further provides that a judgment of divorce places former spouses in the same situation with respect to each other and any causes of action one spouse might have against the other as if no marriage had ever been contracted between them.

Effective August 1, 2016.

(Amends R.S. 9:291; adds C.E. Art. and 412.5)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Deleted provisions relative to evidence that could be offered in criminal matters.
2. Deleted requirement in civil matters that defendant must first make a request to plaintiff before being provided with notice that certain evidence may be offered.