

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND AND RE-ENACT CHAPTER
7, ARTICLE V OF THE THIBODAUX CITY CODE OF
ORDINANCES SO AS TO CREATE SECTION 7-34.9
BATTERY OF A DATING PARTNER**

BE IT ORDAINED by the City Council of the City of Thibodaux in regular session assembled, that Chapter 7 of the Thibodaux City Code of Ordinances is hereby amended and re-enacted so as to create Section 7-34.9 Battery of a Dating Partner to read as follows:

Chapter 7 – Offenses and Miscellaneous Provisions

Article V. Assault and Battery and Related Offenses

Sec. 7-34.9 Battery of a Dating Partner

- A. Battery of a dating partner is the intentional use of force or violence committed by one dating partner upon the person of another dating partner.
- B. For purposes of this Section:
- (1) “Burning” means an injury to flesh or skin caused by heat, electricity, friction, radiation, or any other chemical or thermal reaction.
 - (2) “Court-monitored domestic abuse intervention program” means a program, comprised of a minimum of twenty-six in-person sessions occurring over a minimum of twenty-six weeks, that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:
 - (a) Experience in working directly with perpetrators and victims of domestic abuse.
 - (b) Experience in facilitating batterer intervention groups.
 - (c) Training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity to victims.
 - (3) “Dating partner” means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. “Dating partner” shall not include a casual relationship or ordinary association between persons in a business or social context.
 - (4) Repealed
 - (5) “Strangulation” means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of the victim.
- C. On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or

suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

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

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

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

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

- F. (1) Except as otherwise provided in Paragraph (2) of this Subsection, on a conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the fourth offense occurred before or after an earlier conviction, the offender shall be imprisoned with hard labor for not less than ten years nor more than thirty years and shall be fined five thousand dollars. The first three years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.
- (2) If the offender has previously received the benefit of suspension of sentence, probation, or parole as a fourth or subsequent offender, no part of the sentence may be imposed with benefit of suspension of sentence, probation, or parole, and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction for any offense.

- G. (1) For purposes of determining whether an offender has a prior conviction for violation of this Section, a conviction under this Section, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which prohibits the intentional use of force or violence committed by one household member, family member, or dating partner upon another household member, family member, or dating partner shall constitute a prior conviction.
- (2) For purposes of this Section, a prior conviction shall not include a conviction for an offense under this Section if the **date** of completion of sentence, probation, parole, or suspension of sentence is more than ten years prior to the commission of the crime with which the offender is charged, and such conviction shall not be considered in the assessment of penalties hereunder. However, periods of time during which the offender was incarcerated in a penal institution in this or any other state shall be excluded in computing the ten-year period.
- H. An offender ordered to complete a court-monitored domestic abuse intervention program required by the provisions of this Section shall pay the cost incurred by participation in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay.
- I. This Subsection shall be cited as the “Dating Partner Abuse Child Endangerment Law”. Notwithstanding any provision of law to the contrary, when the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.
- J. Any felony crime of violence, as defined by [R.S. 14:2\(B\)](#), against a person committed by one **dating partner** against another **dating partner**, shall be designated as an act of domestic abuse for consideration in any civil or criminal proceeding.
- K. Notwithstanding any provision of law to the contrary, if the victim of the offense is pregnant and the offender knows that the victim is pregnant at the time of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.
- L. Notwithstanding any provision of law to the contrary, if the offense involves strangulation, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.
- M. (1) Notwithstanding any provision of law to the contrary, if the offense is committed by burning, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.
- (2) If the burning results in serious bodily injury, the offense shall be classified as a crime of violence, and the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.
- N. Except as provided in Paragraph (M)(2) and Subsection P of this Section, if the offender intentionally inflicts serious bodily injury, the offender, in

addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than eight years.

- O. Except as provided in Subsection P of this Section, if the intentional use of force or violence is committed with a dangerous weapon, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than ten years.
- P. Notwithstanding any provision of law to the contrary, if the intentional use of force or violence is committed with a dangerous weapon when the offender intentionally inflicts serious bodily injury, the offender, in addition to other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than fifteen years.

State Law reference – Similar provisions, R.S. 14:34.9

BE IT FURTHER ORDAINED that the provisions of this ordinance shall become effective immediately upon its adoption and approval by the Mayor.

The above ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS:
NAYS:
ABSTAINED:
ABSENT:

And the above ordinance was declared adopted this ____ day of _____ 2021.

Jennifer Morvant, Council Adm.

Chad J. Mire, President