2022 Regular Session

HOUSE BILL NO. 615

BY REPRESENTATIVE FREEMAN

LAW ENFORCEMENT: Provides relative to law enforcement records

AN ACT

To amend and reenact R.S. 44:3(A)(4)(b)(ii) and R.S. 44:4(15) and to enact R.S. 44:3(K), relative to public records; to provide relative to disclosure; to provide relative to law enforcement investigative records; to provide for disclosure to certain individuals; to provide relative to pending claims against the state; to provide for redaction of records; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 44:3(A)(4)(b)(ii) and 44:4(15) are hereby amended and reenacted and R.S. 44:3(K) is hereby enacted to read as follows:

§3. Records of prosecutive, investigative, and law enforcement agencies and communications districts

A. Nothing in this Chapter shall be construed to require disclosures of records, or the information contained therein, held by the offices of the attorney general, district attorneys, sheriffs, police departments, Department of Public Safety and Corrections, marshals, investigators, public health investigators, correctional agencies, communications districts, intelligence agencies, Council on Peace Officer Standards and Training, Louisiana Commission on Law Enforcement and Administration of Criminal Justice, or publicly owned water districts of the state, which records are:

* * *

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
(4)(a) The records of the arrest of a person, other than the report of the
officer or officers investigating a complaint, until a final judgment of conviction or
the acceptance of a plea of guilty by a court of competent jurisdiction. However, the
initial report of the officer or officers investigating a complaint, but not to apply to
any followup or subsequent report or investigation, records of the booking of a
person as provided in Code of Criminal Procedure Article 228, records of the
issuance of a summons or citation, and records of the filing of a bill of information
shall be a public record.

(b) The initial report shall set forth:

(i) A narrative description of the alleged offense, including appropriate
details thereof as determined by the law enforcement agency.

(ii) The name and identification of each and every person who is a witness
to, a suspect charged with, or arrested for the alleged offense.

* * *

K.(1) Nothing in this Section shall be construed as prohibiting the release of
any portion of the investigation to the victim, or a designated family member as
defined in R.S. 46:1842, unless the custodian determines that all or part of the release
would materially affect pending criminal litigation or any criminal litigation which
can be reasonably anticipated.

(2) If the custodian makes a determination that release would materially
affect pending criminal litigation or any criminal litigation which can be reasonably
anticipated, the victim shall be entitled to receive a status update on the charges and
investigation within ten days of such a determination. No custodian may withhold
a report from a victim under any circumstances after a period of forty-five days.

§4. Applicability

This Chapter shall not apply:

* * *

(15)(a) To any pending claims or pending claim files in the custody or
control of the office of risk management, division of administration, or similar
records in the custody of any municipality or parish; to any information concerning
pending legal claims in the files of any attorney representing the state or any
municipality in connection with the office of risk management, division of
administration, or any office with similar responsibilities of any municipality or
parish; or to any pending claims relating to loss reserves maintained or established
by the office of risk management, division of administration, or any office with
similar responsibilities of any municipality or parish, for any claims or for losses
incurred but not reported; however, this Chapter shall be applicable to reserves as
reported in the financial statement of the office of risk management, division of
administration, or any municipality or parish. Nothing in this Paragraph shall be
construed or interpreted in a manner as to prevent or inhibit in any manner the
chairman and vice chairman of the Joint Legislative Committee on the Budget and
the litigation subcommittee of the Joint Legislative Committee on the Budget from
obtaining dollar amounts billed by and paid to contract attorneys and experts in
defense of claims against the state that the chairman or vice chairman, or the
subcommittee determines is necessary to perform functions and duties relative to the
evaluation of performance or the determination of budget policy; however, no
legislator or any committee of the legislature shall disclose any confidential
information so obtained that would jeopardize or have a detrimental effect on the
litigating position of the state.

(b) Nothing in this Section shall be construed to require the wholesale
exemption of any report, correspondence, or other document prepared by an attorney
acting on behalf of a public body. Whenever possible, the custodian may redact the
attorney's mental impressions and legal advice to the public body consistent with the
attorney-client privilege.

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CODING: Words in struck through type are deletions from existing law; words underscored are additions.
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 615 Original 2022 Regular Session Freeman

Abstract: Provides relative to the disclosure of investigative records to victims and certain other designated purposes and provides for the redacting of certain information.

Present law (R.S. 44:3) provides relative to records of law enforcement agencies. Present law provides for circumstances where records are not required to be disclosed.

Present law provides that the arrest records of a person, other than the investigative police report, shall not be disclosed until a final judgment of conviction or guilty plea. Present law provides that the initial report of the officer's investigation records of the booking of the person, records of the issuance of a summons or citation, and records of the filing of a bill of information are public record.

Present law details what the initial report shall set forth including a narrative description of the alleged offense and the name and identification of each person charged with or arrested for the alleged offense.

Proposed law retains present law and provides that the report shall contain each and every person who is a witness of the alleged offense.

Proposed law provides that present law shall not be construed as prohibiting the release of the investigation to the victim or designated family member unless the custodian determines that the disclosure would materially or reasonably anticipated to affect pending criminal litigation.

Proposed law provides that if the custodian determines the release would affect or can be reasonably anticipated to affect pending criminal litigation, the victim shall be informed within 10 days of the determination. No custodian shall withhold a report from a victim after 45 days.

Present law (R.S. 44:4) provides for public records exceptions. Present law (R.S. 44:4(15)) provides that certain records, including legal claims in attorney files, related to pending claims in the custody of the office of risk management, division of administration, or municipality or parish shall not be disclosed. Present law provides that the Joint Legislative Committee on the Budget may obtain dollar amounts billed and paid to contract attorneys and experts in defense of claims against the state.

Proposed law retains present law and provides that nothing in present law shall require the wholesale exemption of any record prepared by an attorney acting on behalf of a public body. Proposed law further provides that the custodian may redact whenever possible mental impressions and legal advice consistent with the attorney-client privilege.

(Amends R.S. 44:3(A)(4)(b)(ii) and 4(15); Adds 44:3(K))