

RÉSUMÉ DIGEST

ACT 337 (HB 309)

2017 Regular Session

Moreno

Existing law provides for the rights of crime victims and their families, including but not limited to the right to advance notification of certain judicial proceedings, the right to counsel, the right to be interviewed in a private setting, the right to be present and heard at all critical stages of the proceedings, the right to seek restitution, and the right to the return of a victim's property. Existing law further provides that a victim is eligible to receive these rights only if the victim reports the crime to law enforcement within 72 hours of the occurrence or discovery of the crime, unless extenuating circumstances exist.

New law provides that the rights provided to victims of sexual assault in new law attach whether or not a victim seeks the help of law enforcement or a healthcare provider and whether or not the victim receives a forensic medical exam or is administered a sexual assault collection kit. Further provides that nothing in new law shall negate or impair the mandatory reporting of crimes against children under 18 or to impair any investigation or prosecution of such crime.

New law provides that stolen or other personal property of the victim shall be returned when no longer needed as evidence by the judicial and law enforcement agencies at no cost to the victim or the victim's family.

Existing law defines "crime victim who is a minor" as a person under the age of eighteen against whom certain identified crimes were committed and defines "victim" as any person against whom those same crimes were committed. The identified crimes include:

- (1) Any homicide, or any felony offense.
- (2) Any sexual offense.
- (3) The offenses of vehicular negligent injuring and first degree vehicular negligent injuring.

New law retains existing law but changes "any sexual offense" in existing law definitions to include a human trafficking-related offense.

Existing law defines "victim's family" as including a spouse, parent, child, stepchild, sibling, or legal representative of the victim, except when the person is in custody for an offense or is the defendant.

New law retains existing law and adds that the definition of a "victim's family" also excludes a person who has been identified as the perpetrator, regardless of whether the person is in custody.

New law adds definitions of "crime lab", "forensic medical examination", "healthcare provider", "sexual assault advocate", "sexual assault collection kit", and "victim of sexual assault".

Existing law provides for a victim registration form to be filed with the law enforcement agency investigating the offense and provides for the information provided by the victim for notification.

New law retains existing law and adds that the form shall also include an email address for notification purposes.

Existing law requires notification of pardon or parole hearings to crime victims.

New law provides that the notification of parole and pardon hearings shall also be made to any person who files a victim registration and notification form.

New law provides that a victim of sexual assault has the right to be notified and request a sexual assault advocate during a forensic medical examination or scheduled interview with law enforcement.

New law requires the district attorney to make reasonable efforts to interview the victim or designated family member to determine the facts and whether the victim or family is seeking restitution.

New law requires law enforcement and judicial agencies to provide a private setting for all interviews of victims of sexual assault, and provides that only persons directly and immediately related to the interviewing of the victim be present for such interviews.

New law authorizes the victim of a sexual assault or the parents of a minor victim to refuse any request for interviews from the attorney for the defendant.

New law provides that a contradictory hearing with the district attorney must occur before a victim of sexual assault may be subpoenaed to testify by the defendant, and willful disregard of new law may be punishable as contempt of court.

Provides that failure to comply with the provisions of new law shall not affect the admissibility of evidence in a civil or criminal proceeding nor shall the failure to comply with new law invalidate a final disposition.

Provides that new law does not create a cause of action for costs or attorney fees, for the appointment of counsel for a victim, or for compensation or damages against the state; however, new law further provides that nothing in new law precludes the filing for a writ of mandamus.

Existing law provides that if a defendant is charged with certain crimes, certain records of a minor victim cannot be produced unless a contradictory hearing is held with the state.

New law expands the list of crimes that a defendant must be charged with to trigger the mandatory contradictory hearing provided for in existing law and expands the existing law to apply to such crime victims regardless of the age of the victim. New law further provides that the district attorney must provide written notice to the victim of a hearing on the production of the victim's records. New law provides that records obtained without full compliance are inadmissible and willful violations may be punishable as contempt of court.

Effective August 1, 2017.

(Amends R.S. 15:260 and R.S. 46:1842, 1843, and 1844(A)(2)(b), (L), (M)(1) and (2), and (O); Adds R.S. 46:1845)