

RÉSUMÉ DIGEST

ACT 207 (HB 313)

2022 Regular Session

Pressly

Existing law provides that a victim has the rights and is eligible for the services provided to crime victims under existing law only if the victim reported the crime to law enforcement authorities within 72 hours of its occurrence or discovery, unless extenuating circumstances exist.

New law provides that a victim has the rights and is eligible for victim services regardless of when the victim reported the crime to law enforcement authorities.

Prior law provided that if the victim was properly registered with the clerk of court, the victim or designated family member had the right to review and comment on the presentence or postsentence reports relating to the crime against the victim.

New law removes the requirement that the victim be properly registered with the clerk of court.

Existing law provides that at all critical stages of the prosecution, if the victim or designated family member has registered with the appropriate law enforcement or judicial agency and is present, the court shall determine if the victim or designated family member wishes to make a victim impact statement.

New law removes the requirement that the victim or designated family member register with the appropriate law enforcement or judicial agency.

Existing law provides that in order for a victim or designated family member to be eligible to receive notices provided by existing law and exercise the rights provided by present law, the victim or designated family member must complete a form promulgated by the La. Commission on Law Enforcement and Administration of Criminal Justice.

New law authorizes instead of requires the victim or designated family member to complete the form promulgated by the La. Commission on Law Enforcement and Administration of Criminal Justice.

Existing law provides that the victim and designated family member shall have the right to register with the appropriate agency at any time and exercise prospectively the rights guaranteed by existing law.

New law also provides that a victim or designated family member who does not register with the appropriate agency shall nevertheless be permitted to exercise the rights guaranteed by existing law.

Existing law provides that in order to protect the identity and provide for the safety and welfare of crime victims who are minors and of victims of sex offenses or human trafficking-related offenses, all public officials and officers and public agencies shall not publicly disclose the name, address, contact information, or identity of crime victims who at the time of the commission of the offense are minors or victims of sex offenses or human trafficking-related offenses, regardless of the date of commission of the offense, but allows the victim to waive such confidentiality.

Existing law further provides that the public disclosure of the name of the juvenile crime victim is not prohibited when the crime resulted in the death of the victim.

New law also provides that existing law shall be construed to require the redaction of a victim's name when the named victim is the one requesting such documents, reports, or any other records.

New law provides that all victims of violent crimes shall have the right to access and obtain their initial police report and that a victim of sexual assault shall have the right to a forensic medical exam and a copy of their medical examination report pursuant to new law (R.S. 40:1216.1(G)) as proposed by Senate Bill 147 of the 2022 Regular Session.

Prior law required the district attorney, prior to trial, to make reasonable efforts to interview the victim or designated family member to determine the facts of the case and whether the victim or the family was requesting restitution, and further required law enforcement and judicial agencies to provide a private setting to conduct all interviews of the sexual assault victim.

New law repeals prior law.

Prior law authorized the victim or the parent or guardian of a minor victim of sexual assault or a designated family member to refuse any requests for interviews with the attorney for the defendant or any employee or agent working for the attorney for the defendant, and further required the defendant to show good cause at a contradictory hearing with the district attorney why the subpoena should be issued before any victim of sexual assault was subpoenaed to testify on behalf of a defendant at any pretrial hearing.

New law repeals prior law.

Prior law provided that willful disregard of the rights of victims and witnesses as provided by prior law was punishable as contempt of court, and provided that failure to comply with the provisions of prior law did not affect the admissibility of any evidence in a civil or criminal proceeding and did not invalidate any sentence, plea, conviction, or other final disposition due to the failure to comply with prior law.

New law repeals prior law.

Prior law prohibited prior law from being construed to create a cause of action by or on behalf of any person for an award of costs or attorney fees, for the appointment of counsel for a victim, or for any cause of action for compensation or damages against the state, a political subdivision, a public agency, or a court, or any officer, employee, or agent thereof, and further provided that nothing in prior law precluded filing for a writ of mandamus as provided in the C.C.P. to compel the performance of a ministerial duty required by law.

New law repeals prior law.

Effective upon the enactment of the Act which originated as Senate Bill No. 147 of the 2022 Regular Session (August 1, 2022).

(Amends R.S. 46:1843, 1844(H), (K)(1)(a), (T), and (W)(1)(a), and 1845(B); Adds R.S. 46:1844(X); Repeals R.S. 46:1845(C) and (D))