

ACT No. 654

2024 Regular Session

HOUSE BILL NO. 443

BY REPRESENTATIVES COATES, AMEDEE, BERAULT, BILLINGS, BRAUD, BUTLER, ROBBY CARTER, CHENEVERT, DAVIS, DEWITT, DICKERSON, DOMANGUE, EDMONSTON, FIRMENT, FISHER, FREEMAN, FREIBERG, MIKE JOHNSON, LAFLEUR, MACK, MOORE, OWEN, PHELPS, TAYLOR, WALTERS, WYBLE, AND ZERINGUE

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(8) and (39) and to enact R.S. 15:440.7 and 440.8 and
3 Children's Code Articles 328.1 and 328.2, relative to records of protected persons;
4 to provide procedures for subpoenas of videos of protected persons; to provide an
5 exception to the Public Records Law; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:440.7 and 440.8 and hereby enacted to read as follows:

8 §440.7. Admissibility in civil, family, and administrative proceedings; discovery;
9 confidentiality

10 A.(1) Courts with civil or family jurisdiction or administrative law judges
11 may authorize the issuance of a subpoena duces tecum for the production of a
12 videotape of a protected person made pursuant to this Section for good cause shown.
13 The subpoena duces tecum shall order the videotape of the protected person be
14 returnable to the court for inspection. If the court determines that the videotape is
15 relevant and necessary to the case under review, the court may order in writing the
16 videotape be disclosed to the attorneys of record for each party subject to a protective
17 order pursuant to Paragraph (2) of this Subsection.

18 (2) The protective order shall include all of the following information:

19 (a) Names of the attorneys of record in the case and their regularly employed
20 staff, paralegal, or expert witnesses who are the only individuals permitted to view
21 or be in possession of the videotape.

1 (b) The videotape is in the exclusive custody of the court and that the
2 videotape shall not be copied, photographed, duplicated, or otherwise reproduced
3 except as a written transcript that protects the identity of the protected person by the
4 use of initials.

5 (c) If the party is not represented by an attorney, the party and the employees
6 or retained expert witnesses of the party shall not be given a copy of the videotape
7 but shall be given reasonable access to view the recording by the custodian of the
8 recording.

9 (d) Attorneys and custodians of the videotape shall file their copy of the
10 videotape under seal into the record of the proceedings upon termination of
11 representation or upon disposition of the matter at the trial level.

12 (e) The unlawful possession, selling, duplicating, distributing, transferring,
13 or copying of any videotape of protected persons is punishable pursuant to R.S.
14 14:81.5.

15 B. Any violation of this Section shall be punishable as contempt of court.

16 C. Nothing in this Section shall prevent the Department of Children and
17 Family Services or law enforcement from sharing information as authorized or
18 required by state or federal law.

19 §440.8. Confidentiality of records; child advocacy centers

20 The files, reports, records, communications, working papers, or videotaped
21 interviews used or developed in providing services under Title V, Part II of the
22 Children's Code are confidential and not subject to the Public Records Law.
23 Disclosure of any files, reports, records, communications, or working papers of a
24 child advocacy center may be made only pursuant to Children's Code Article 525 or
25 by order of the juvenile court of competent jurisdiction pursuant to Children's Code
26 Article 412. Disclosure of videotaped interviews of protected persons shall be
27 disclosed either pursuant to R.S. 15:440.1, et seq., or Children's Code Article 322,
28 et seq.

1 Section 2. Children's Code Articles 328.1 and 328.2 are hereby enacted to read as
2 follows:

3 Art. 328.1. Admissibility in civil, family, and administrative proceedings;
4 discovery; confidentiality

5 A.(1) A court with civil or family jurisdiction or an administrative law judge
6 may authorize the issuance of a subpoena duces tecum for the production of a
7 videotape of a protected person made pursuant to this Article for good cause shown.
8 The subpoena duces tecum shall order the videotape of the protected person be
9 returnable to the court for inspection. If the court determines that the videotape is
10 relevant and necessary to the case under review the court may order in writing that
11 the videotape be disclosed to the attorneys of record for each party subject to a
12 protective order pursuant to Subparagraph (2) of this Paragraph.

13 (2) The protective order shall include all of the following information:

14 (a) Names of the attorneys of record in the case and their regularly employed
15 staff, paralegal, or expert witnesses who are the only individuals permitted to view
16 or be in possession of the videotape.

17 (b) The videotape is in the exclusive custody of the court and that the
18 videotape shall not be copied, photographed, duplicated, or otherwise reproduced
19 except as a written transcript that protects the identity of the protected person by the
20 use of initials.

21 (c) If the party is not represented by an attorney, the party and the employees
22 or retained expert witnesses of the party shall not be given a copy of the videotape
23 but shall be given reasonable access to view the recording by the custodian of the
24 recording.

25 (d) Attorneys and custodians of the videotape shall file their copy of the
26 videotape under seal into the record of the proceedings upon termination of
27 representation or upon disposition of the matter at the trial level.

28 (e) The unlawful possession, selling, duplicating, distributing, transferring,
29 or copying of any videotape of protected persons is punishable pursuant to R.S.
30 14:81.5.

1 B. Any violation of this Article shall be punished as contempt of court.

2 C. Nothing in this Article is intended to restrict the ability of the Department
3 of Children and Family Services or law enforcement from sharing information as
4 authorized or required by state or federal law.

5 Art. 328.2. Confidentiality of records; child advocacy centers

6 The files, reports, records, communications, working papers, or videotaped
7 interviews used or developed in providing services under Title V, Part II of the
8 Children's Code are confidential and not subject to the Public Records Law.
9 Disclosure of any files, reports, records, communications, or working papers of a
10 child advocacy center may be made only pursuant to Children's Code Article 525 or
11 by order of the juvenile court of competent jurisdiction pursuant to Children's Code
12 Article 412. Disclosure of videotaped interviews of protected persons shall be
13 disclosed either pursuant to R.S. 15:440.1, et seq. or Children's Code Article 322, et
14 seq.

15 Section 3. R.S. 44:4.1(B)(8) and (39) are hereby amended and reenacted to read as
16 follows:

17 §4.1. Exceptions

18 * * *

19 B. The legislature further recognizes that there exist exceptions, exemptions,
20 and limitations to the laws pertaining to public records throughout the revised
21 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
22 limitations are hereby continued in effect by incorporation into this Chapter by
23 citation:

24 * * *

25 (8) R.S. 15:242, 440.6, 440.8, 477.2, 549, 570, 574.12, 578.1, 587, 587.1.2,
26 616, 660, 840.1, 1176, 1204.1, 1212.1(E), 1507

27 * * *

28 (39) Children's Code Articles 328, 328.2, 404, 412, 424.6, 424.9, 441, 543,
29 545, 615, 616, 616.1, 663, 737, 793, 888, 891, 893, 920, 921, 922, 1007, 1106, 1107,

1 1185, 1186, 1187, 1207, 1213, 1229, 1235, 1252, 1273, 1283.5, 1283.10, 1416, 1453,

2 1568

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____