

SENATE BILL NO. 326

BY SENATOR GARY SMITH

1 AN ACT

2 To amend and reenact R.S. 15:440.5(C), relative to electronic recordings of protected  
3 persons; to authorize certain individuals to view certain videotaped statements of a  
4 protected person; to provide with respect to copies and transcripts of the videotaped  
5 statement; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:440.5(C) is hereby amended and reenacted to read as follows:

8 §440.5. Admissibility of videotaped statements; discovery by defendant

9 \* \* \*

10 C. In a criminal prosecution, when the state intends to offer as evidence a  
11 copy of a videotaped oral statement of a protected person made pursuant to the  
12 provisions of this Subpart, the defendant, through his attorney only, may be provided  
13 a copy of the videotape if the court determines it necessary to prepare a proper  
14 defense. If the defendant's attorney is provided a copy of the videotaped statement  
15 by court order or by permission of the district attorney, only ~~the attorney and the~~  
16 ~~defendant shall be permitted to view the tape, and no copies shall be made by any~~  
17 ~~person~~ **the following persons involved in preparing the defense of the instant**  
18 **charges shall be permitted to view the videotape: the attorney and his regularly**  
19 **employed staff, the defendant, the defense investigator designated to work on**  
20 **the case, the defense paralegal designated to work on the case, and other staff**  
21 **members of the attorney who are transcribing the videotaped oral statement.**  
22 **Other than a transcript of the videotaped oral statement, no copies of the**  
23 **videotape shall be made by any person, except for use as trial exhibits.** The copy  
24 **of the videotaped statement and any transcripts** shall be securely retained by the  
25 defendant's attorney at all times and shall not be possessed, transferred, distributed,  
26 copied, or viewed by any unauthorized party. It shall be the affirmative duty of the  
27 defendant's attorney to return the videotape to the court immediately upon conclusion

1 of the case, but in all cases prior to sentencing. A defendant who appears pro se in  
2 a criminal proceeding shall be allowed reasonable access to the videotape of a  
3 protected person only with an order of the court and under court-directed  
4 supervision. The tape shall be filed as part of the record under seal by the clerk of  
5 court for use in subsequent legal proceedings or appeals and shall ~~only~~ be released  
6 **only** upon motion of the state or counsel of record with an order of court and in  
7 compliance with this Section. Any violation of this Subsection shall be punished as  
8 contempt of court. Any person who makes an unauthorized disclosure of the  
9 videotape or its contents may also be subject to liability for civil damages, including  
10 punitive damages.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_