
SENATE COMMITTEE AMENDMENTS

2017 Regular Session

Amendments proposed by Senate Committee on Judiciary B to Engrossed House Bill No. 309 by Representative Moreno

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" and before "R.S. 46:1842" insert "R.S. 15:260 and"

3 AMENDMENT NO. 24 On page 1, line 3, after "R.S. 46:1845" delete the remainder of the line and insert a comma
5 ", " and "relative to rights of crime victims; to provide relative"6 AMENDMENT NO. 3

7 On page 1, line 4, change "eligibility" to "applicability"

8 AMENDMENT NO. 49 On page 1, line 12, after "R.S. 46:1845" and before "hereby" delete "and 1845.1 are" and
10 insert "is"11 AMENDMENT NO. 512 On page 2, line 5, change "sexual" to "sex" after "offense" and before the period "." insert
13 "or human trafficking-related offense as defined or enumerated in R.S. 46:1844(W)"14 AMENDMENT NO. 615 On page 3, line 5, after "address" insert and ", email address,"16 AMENDMENT NO. 717 On page 3, line 17, change "sexual" to "sex" and after "offense" and before the period "."
18 insert "or human trafficking-related offense as defined or enumerated in R.S. 46:1844(W)"19 AMENDMENT NO. 820 On page 4, line 1, change "identifies" to "presents"21 AMENDMENT NO. 922 On page 4, line 4, after "identified" delete the remainder of the line23 AMENDMENT NO. 1024 On page 4, at the beginning of line 5, delete "victim"25 AMENDMENT NO. 1126 On page 4, line 7, after "when" and before "person" change "the" to "that"27 AMENDMENT NO. 12

28 On page 4, line 8, after "offense" delete the remainder of the line and insert the following:

1 " is the defendant, or has been identified as the perpetrator, regardless of
2 whether the person is in custody."

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4 AMENDMENT NO. 13

5 On page 5, line 18, after "notify" insert "the victim or the victim's family and"

6 AMENDMENT NO. 14

7 On page 6, delete lines 2 through 27 and delete pages 7 through 9 in their entirety and on
8 page 10, delete lines 1 through 10 and insert the following:

9 "A.(1) The rights provided to victims of sexual assault contained in
10 this Section attach whether a victim seeks the assistance of either a law
11 enforcement official or a healthcare provider. A victim of sexual assault
12 retains all the rights of these provisions regardless of whether the victim
13 receives a forensic medical examination or whether a sexual assault
14 collection kit is administered.

15 (2) Notwithstanding any other provision of law to the contrary,
16 nothing in this Section shall be construed to negate or impair any provision
17 of law relative to the mandatory reporting of crimes against children under
18 the age of eighteen years or to negate or impair the investigation or
19 prosecution of any crime against children under the age of eighteen.

20 B. A victim of sexual assault has the right to be notified of and to
21 request the presence of a sexual assault advocate during the administration
22 of a forensic medical examination or a scheduled interview by a law
23 enforcement official if a sexual assault advocate is reasonably available.
24 Nothing in this Section shall be construed to prohibit the conducting of a
25 forensic medical examination or an interview by a law enforcement official
26 in the absence of a sexual assault advocate.

27 C.(1) The district attorney, prior to trial, shall make reasonable efforts
28 to interview the victim or designated family member to determine the facts
29 of the case and whether the victim or the family is requesting restitution.

30 (2) All law enforcement and judicial agencies shall provide a private
31 setting for conducting all interviews of a victim of sexual assault. "Private
32 setting" shall mean an enclosed room from which the occupants are not
33 visible or otherwise identifiable and whose conversations cannot be heard
34 from outside the room. Only those persons directly and immediately related
35 to the interviewing of the victim, specifically the victim, a social worker,
36 psychologist, or other professional, a victim advocate designated by the
37 sheriff's office or a representative from a not-for-profit victim service
38 organization including but not limited to rape crisis centers, sexual assault
39 centers, domestic violence advocacy groups, and alcohol abuse or substance
40 abuse groups providing emotional support to the victim, shall be present
41 unless the victim requests the exclusion of such person from the interview,
42 and when appropriate, the parent or parents of the victim.

43 (3) The victim of sexual assault and the victim's family may refuse
44 any requests for interviews with the attorney for the defendant or any
45 employee or agent working for the attorney for the defendant. If the victim
46 of sexual assault is a minor, the parent or guardian of the victim may refuse
47 to permit the minor to be interviewed by the attorney for the defendant or any
48 employee or agent working for the attorney for the defendant. Before any
49 victim of sexual assault may be subpoenaed to testify on behalf of a
50 defendant at any pretrial hearing, the defendant shall show good cause at a
51 contradictory hearing with the district attorney why the subpoena should be
52 issued. Willful disregard of the rights of victims and witnesses as provided
53 in this Paragraph may be punishable as contempt of court.

1 D. The failure to comply with the provisions of this Section shall not
2 affect the admissibility of any evidence in a civil or criminal proceeding, nor
3 shall any sentence, plea, conviction, or other final disposition be invalidated
4 due to the failure to comply with the provisions of this Section. Nothing in
5 this Section shall be construed as creating a cause of action by or on behalf
6 of any person for an award of costs or attorney fees, for the appointment of
7 counsel for a victim, or for any cause of action for compensation or damages
8 against the state of Louisiana, a political subdivision, a public agency, or a
9 court, or any officer, employee, or agent thereof. Nothing in this Section
10 precludes filing for a writ of mandamus as provided in the Code of Civil
11 Procedure to compel the performance of a ministerial duty required by law.

12 Section 2. R.S. 15:260 is hereby amended and reenacted to read as follows:

13 §260. Production of certain records of a victim under age eighteen; conditions

14 A. If the defendant is charged with a violation of R.S. 14:93 or any provision
15 of Subpart C of Part II, Subpart B of Part IV, or Subpart A(1) or A(4) of Part V of
16 Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, and the victim was
17 under the age of eighteen at the time of the offense, R.S. 14:93.2.3, or sex offense or
18 human trafficking-related offense as defined in or enumerated in R.S. 46:1844(W),
19 a subpoena or court order compelling the production of medical, psychological,
20 school, or other records pertaining to the victim shall not be issued upon request of
21 the defendant unless the subpoena or court order identifies the records sought with
22 particularity and is reasonably limited as to subject matter, and the court finds, after
23 a contradictory hearing with the state, that the requested records are likely to be
24 relevant and admissible at trial and are not sought for the purpose of harassing the
25 victim.

26 B. Any records obtained by the defendant or his attorney without full
27 compliance with the provisions of this Section shall be inadmissible in any criminal
28 proceeding.

29 C. The district attorney shall provide written notice to the victim, or counsel
30 for the victim if applicable, of the contradictory hearing required by the provisions
31 of this Section.

32 D. Willful violation of the provisions of this Section may be punishable as
33 contempt of court."