

2019 Regular Session

SENATE BILL NO. 146

BY SENATORS MORRELL, BISHOP AND CARTER AND REPRESENTATIVES
JIMMY HARRIS, JAMES AND LEGER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

DOMESTIC VIOLENCE. Prohibits the incarceration of victims of domestic violence and sex offenses who refuse to testify against their abusers. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 15:257, relative to compulsory process; to prohibit the arrest and

3 incarceration of victims of domestic violence and sexual assault who refuse to testify

4 against their abusers; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 15:257 is hereby amended and reenacted to read as follows:

7 §257. Placing material witness under bond; exception for victims

8 ~~Whenever~~ A. Except as provided in Subsection B of this Section,

9 whenever it shall appear, upon motion of the district attorney or upon motion of a

10 defendant supported by his affidavit, that the testimony of any witness is essential

11 to the prosecution or the defense, as the case may be, and it is shown that it may

12 become impracticable to secure the presence of the person by subpoena, a judge, as

13 defined in Article 931 of the Code of Criminal Procedure, shall issue a warrant for

14 the arrest of the witness. The witness shall be arrested and held in the parish jail, or

15 such other suitable place as shall be designated by the court, until he gives an

16 appearance bond as provided for defendants when admitted to bail, or until his

17 testimony shall have been given in the cause or dispensed with.

1 **B. A witness who is the victim of any offense defined as a sex offense**
 2 **under R.S. 15:541, or who is the victim of an offense committed under R.S.**
 3 **14:34.9 (battery of a dating partner), R.S. 14:35.3 (domestic abuse battery), or**
 4 **R.S. 14:37.7 (domestic abuse aggravated assault), shall not be subject to the**
 5 **provisions of Subsection A of this Section, nor otherwise subject to arrest or**
 6 **imprisonment, for the purpose of securing the witness's testimony in the**
 7 **prosecution or defense of any of those offenses.**

8 Section 2. This Act shall become effective upon signature by the governor or, if not
 9 signed by the governor, upon expiration of the time for bills to become law without signature
 10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 12 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 146 Engrossed

2019 Regular Session

Morrell

Present law provides that if the testimony of a witness is essential to the prosecution or the defense, and it may become impracticable to secure the presence of the person by subpoena, then upon motion of the district attorney or a defendant, a judge is to issue a warrant for the arrest of the witness. Present law further provides that the witness is to be arrested and held in the parish jail or other suitable place as designated by the court, until he gives an appearance bond as provided for defendants admitted to bail, or until his testimony has been given or dispensed with.

Proposed law provides that present law does not apply for the purpose of securing the witness's testimony in the prosecution or defense of any present law offense defined as a sex offense under present law, or the present law crimes of battery of a dating partner, domestic abuse battery, or domestic abuse aggravated assault, when the witness is also the victim of any of those offenses.

Proposed law otherwise retains present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 15:257)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Make proposed law applicable to both the prosecution and the defense instead of only applicable to the prosecution.