

DIGEST

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SB 384 Engrossed

2020 Regular Session

Reese

Present law provides that it is unlawful for a person who is either a principal or accessory to a crime to obtain an image of the commission of the crime using any camera or other image recording device and to transfer that image by the use of a computer online service or other means of electronic communication for the purpose of gaining notoriety, publicity, or the attention of the public, subject to certain present law exceptions.

Proposed law retains present law.

Present law provides that after the institution of prosecution for the crime of unlawful posting of criminal activity, access to any material seized as evidence of this offense is to be in accordance with present law relative to access to evidence of certain offenses.

Proposed law makes a technical change to present law relative to the citation of present law regarding access and disposition of evidence of certain offenses, and otherwise retains present law.

Present law provides that any evidence resulting from the commission of unlawful filming or recording criminal activity is contraband.

Proposed law retains present law and adds that the court, upon motion of the district attorney and after a contradictory hearing, may order the destruction of the contraband after it is determined that it is no longer needed as evidence. However, proposed law provides that the contraband shall be presumed necessary as evidence if an appeal of the conviction is pending, if the convicted person is pursuing post-conviction remedies, or the time for pursuing an appeal or post-conviction remedies has not expired.

Present law provides that in any criminal proceeding, any property or material that is alleged to constitute evidence of the present law crimes of obscenity, video voyeurism, or pornography involving juveniles must remain in the care, custody, and control of the investigating law enforcement agency, the court, or the district attorney. Present law further provides that the court is to deny any request by the defendant to copy or otherwise reproduce any property or material that is alleged to constitute evidence of these present law crimes, provided that the district attorney makes the property or material reasonably available to the defendant.

Proposed law retains present law and adds that evidence of the present law crime of unlawful posting of criminal activity for notoriety and publicity is also subject to present law relative to access to evidence of certain crimes.

Effective August 1, 2020.

(Amends C.Cr.P. Art. 718.1(A) and (B) and R.S. 14:107.4(D) and (E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the engrossed bill:

1. Add that, for purposes of proposed law, contraband shall be presumed necessary as evidence if an appeal of the conviction is pending, if the convicted person is pursuing post-conviction remedies, or the time for pursuing an appeal or post-conviction remedies has not expired.