

RÉSUMÉ DIGEST

ACT 353 (SB 384)

2020 Regular Session

Reese

Prior law provided 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 prior law exceptions.

New law retains prior law.

Prior law provided 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 prior law relative to access to evidence of certain offenses.

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

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

New law retains prior 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, new 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.

Prior law provided that in any criminal proceeding, any property or material that is alleged to constitute evidence of the prior 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. Prior law further provided 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 prior law crimes, provided that the district attorney makes the property or material reasonably available to the defendant.

New law retains prior law and adds that evidence of the prior law crime of unlawful posting of criminal activity for notoriety and publicity is also subject to prior 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))