
DIGEST

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HB 313 Engrossed

2022 Regular Session

Pressly

Abstract: Provides for the rights and eligibility for services of victims of criminal offenses.

Present law provides that a victim has the rights and is eligible for the services provided to crime victims under present law only if the victim reported the crime to law enforcement authorities within 72 hours of its occurrence or discovery, unless extenuating circumstances exist.

Proposed law provides that a victim has the rights and is eligible for victim services regardless of when the victim reported the crime to law enforcement authorities.

Present law provides that if the victim is properly registered with the clerk of court, the victim or designated family member shall have the right to review and comment on the presentence or postsentence reports relating to the crime against the victim.

Proposed law removes the requirement that the victim be properly registered with the clerk of court.

Present law provides that at all critical stages of the prosecution, if the victim or designated family member has registered with the appropriate law enforcement or judicial agency and is present, the court shall determine if the victim or designated family member wishes to make a victim impact statement.

Proposed law removes the requirement that the victim or designated family member register with the appropriate law enforcement or judicial agency.

Present law provides that in order for a victim or designated family member to be eligible to receive notices provided by present law and exercise the rights provided by present law, the victim or designated family member must complete a form promulgated by the La. Commission on Law Enforcement and Administration of Criminal Justice.

Proposed law retains present law but authorizes instead of requires the victim or designated family member to complete the form promulgated by the La. Commission on Law Enforcement and Administration of Criminal Justice.

Present law provides that the victim and designated family member shall have the right to register with the appropriate agency at any time and exercise prospectively the rights guaranteed by present law.

Proposed law retains present law but also provides that a victim or designated family member who does not register with the appropriate agency shall nevertheless be permitted to exercise the rights guaranteed by present law.

Present law provides that in order to protect the identity and provide for the safety and welfare of crime victims who are minors and of victims of sex offenses or human trafficking-related offenses, all public officials and officers and public agencies shall not publicly disclose the name, address, contact information, or identity of crime victims who at the time of the commission of the offense are minors or victims of sex offenses or human trafficking-related offenses, regardless of the date of commission of the offense, but allows the victim to waive such confidentiality.

Present law further provides that the public disclosure of the name of the juvenile crime victim is not prohibited when the crime resulted in the death of the victim.

Proposed law retains present law and also provides that present law shall be construed to require the redaction of a victim's name when the named victim is the one requesting such documents, reports, or any other records.

Proposed law provides that all victims of violent crimes shall have the right to access and obtain their initial police report and that a victim of sexual assault shall have the right to a forensic medical exam and a copy of their medical examination report pursuant to proposed law (R.S. 40:1216.1(G)) as proposed by Senate Bill 147 of the 2022 Regular Session.

Present law provides that the district attorney, prior to trial, shall make reasonable efforts to interview the victim or designated family member to determine the facts of the case and whether the victim or the family is requesting restitution, and further provides that law enforcement and judicial agencies shall provide a private setting to conduct all interviews of the sexual assault victim.

Proposed law repeals present law.

Present law provides that the victim or the parent of guardian of a minor victim of sexual assault and the victim's family may refuse any requests for interviews with the attorney for the defendant or any employee or agent working for the attorney for the defendant, and further provides that before any victim of sexual assault may be subpoenaed to testify on behalf of a defendant at any pretrial hearing, the defendant shall show good cause at a contradictory hearing with the district attorney why the subpoena should be issued.

Proposed law repeals present law.

Present law provides that willful disregard of the rights of victims and witnesses as provided by present law may be punishable as contempt of court, and provides that failure to comply with the provisions of present law shall not affect the admissibility of any evidence in a civil or criminal proceeding, nor shall any sentence, plea, conviction, or other final disposition be invalidated due to the failure to comply with present law.

Proposed law repeals present law.

Present law provides that present law shall not be construed as creating a cause of action by or on behalf of any person for an award of costs or attorney fees, for the appointment of counsel for a victim, or for any cause of action for compensation or damages against the state, a political subdivision, a public agency, or a court, or any officer, employee, or agent thereof, and further provides that nothing in present law precludes filing for a writ of mandamus as provided in the C.C.P. to compel the performance of a ministerial duty required by law.

Proposed law repeals present law.

Proposed law provides that proposed law shall take effect and become operative if and when the Act which originated as Senate Bill No. 147 of the 2022 Regular Session is enacted and becomes effective.

(Amends R.S. 46:1843, 1844(H), (K)(1)(a), (T), and (W)(1)(a), and 1845(B); Adds R.S. 46:1844(X); Repeals R.S. 46:1845(C) and (D))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Specify that victims of violent crimes have the right to obtain their initial police report.
2. Remove the requirement that the forensic medical exam be free.
3. Add a cross reference to proposed law R.S. 40:1216.1(G) as provided by Senate Bill No. 147 of the 2022 Regular Session.
4. Make proposed law contingent on the enactment of Senate Bill No. 147 of the 2022 Regular Session.