

2024 Regular Session

HOUSE BILL NO. 443

BY REPRESENTATIVE COATES

CIVIL/LAW: Provides relative to confidentiality of records in cases involving certain protected persons

1 AN ACT

2 To enact R.S. 15:440.7 and 440.8 and Children's Code Articles 328.1 and 328.2, relative to
3 records of protected persons; to provide procedures for subpoenas of videos of
4 protected persons; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 15:440.7 and 440.8 and hereby enacted to read as follows:

7 §440.7. Admissibility in civil, family, and administrative proceedings; discovery;
8 confidentiality

9 A.(1) Courts with civil or family jurisdiction or administrative law judges
10 may authorize the issuance of a subpoena duces tecum for the production of a
11 videotape of a protected person made pursuant to this Section for good cause shown.
12 The subpoena duces tecum shall order the videotape of the protected person be
13 returnable to the court for inspection. If the court determines that the videotape is
14 relevant and necessary to the case under review, the court shall order in writing the
15 videotape be disclosed to the attorneys of record for each party subject to a protective
16 order pursuant to Paragraph (A)(2) of this Section.

17 (2) The protective order shall include all of the following information:

18 (a) Name of the attorneys of record in the case and their regularly employed
19 staff, paralegal, or expert witnesses who are the only ones permitted to view or be
20 in possession of the videotape.

1 (b) The videotape is in the exclusive custody of the court and that the
2 videotape shall not be copied, photographed, duplicated, or otherwise reproduced
3 except as a written transcript that protects the identity of the protected person by the
4 use of initials.

5 (c) If the party is not represented by an attorney, the party and the employees
6 or retained expert witnesses of the party shall not be given a copy of the videotape
7 but shall be given reasonable access to view the recording by the custodian of the
8 recording.

9 (d) Attorneys and custodians of the videotape shall file their copy of the
10 videotape under seal into the record of the proceedings upon termination of
11 representation or upon disposition of the matter at the trial level.

12 (e) The unlawful possession, selling, duplicating, distributing, transferring,
13 or copying of any videotape of protected persons is punishable pursuant to R.S.
14 14:81.5.

15 B. Any violation of this Section shall be punishable as contempt of court.

16 C. Nothing in this Section shall prevent the Department of Children and
17 Family Services or law enforcement from sharing information as authorized or
18 required by state or federal law.

19 §440.8. Confidentiality of records; child advocacy centers

20 The files, reports, records, communications, working papers, or videotaped
21 interviews used or developed in providing services under Title V, Part II of the
22 Children's Code are confidential and not subject to the public records pursuant to
23 R.S. 44:1 et seq.. Disclosure of any files, reports, records, communications, or
24 working papers of a child advocacy center may only be made pursuant to Children's
25 Code Article 525 or by order of the juvenile court of competent jurisdiction pursuant
26 to Children's Code Article 412. Disclosure of videotaped interviews of protected
27 persons shall be disclosed either pursuant to R.S. 15:440.1, et seq., or Children's
28 Code Article 322, et seq.

1 Section 2. Children's Code Articles 328.1 and 328.2 are hereby enacted to read as
2 follows:

3 Art. 328.1. Admissibility in civil, family, and administrative proceedings;
4 discovery; confidentiality

5 A.(1) A court with civil or family jurisdiction or an administrative law judge
6 may authorize the issuance of a subpoena duces tecum for the production of a
7 videotape of a protected person made pursuant to this Article for good cause shown.
8 The subpoena duces tecum shall order the videotape of the protected person be
9 returnable to the court for inspection. If the court determines that the videotape is
10 relevant and necessary to the case under review the court shall order in writing that
11 the videotape be disclosed to the attorneys of record for each party subject to a
12 protective order pursuant to this Subparagraph (A)(2) of this Article.

13 (2) The protective order shall include all of the following information:

14 (a) Name of the attorneys of record in the case and their regularly employed
15 staff, paralegal, or expert witnesses who are the only ones permitted to view or be
16 in possession of the videotape.

17 (b) The videotape is in the exclusive custody of the court and that the
18 videotape shall not be copied, photographed, duplicated, or otherwise reproduced
19 except as a written transcript that protects the identity of the protected person by the
20 use of initials.

21 (c) If the party is not represented by an attorney, the party and the employees
22 or retained expert witnesses of the party shall not be given a copy of the videotape
23 but shall be given reasonable access to view the recording by the custodian of the
24 recording.

25 (d) Attorneys and custodians of the videotape shall file their copy of the
26 videotape under seal into the record of the proceedings upon termination of
27 representation or upon disposition of the matter at the trial level.

1 (e) The unlawful possession, selling, duplicating, distributing, transferring,
2 or copying of any videotape of protected persons is punishable pursuant to R.S.
3 14:81.5.

4 B. Any violation of this Article shall be punished as contempt of court.

5 C. Nothing in this Article is intended to restrict the ability of the Department
6 of Children and Family Services or law enforcement from sharing information as
7 authorized or required by state or federal law.

8 Art. 328.2 Confidentiality of records; child advocacy centers

9 The files, reports, records, communications, working papers, or videotaped
10 interviews used or developed in providing services under Title V, Part II of the
11 Children's Code are confidential and not subject to the public records pursuant to
12 R.S. 44:1, et seq.. Disclosure of any files, reports, records, communications, or
13 working papers of a child advocacy center may only be made pursuant to Children's
14 Code Article 525 or by order of the juvenile court of competent jurisdiction pursuant
15 to Children's Code Article 412. Disclosure of videotaped interviews of protected
16 persons shall be disclosed either pursuant to R.S. 15:440.1, et seq. or Children's Code
17 Article 322, et seq.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 443 Original

2024 Regular Session

Coates

Abstract: Establishes procedures for subpoenas of videos of protected persons.

Proposed law provides that courts with civil or family jurisdiction or administrative law judges may authorize the issuance of a subpoena duces tecum for the production of a videotape of a protected person made pursuant to proposed law for good cause shown.

Proposed law requires the subpoena duces tecum to order the videotape of the protected person be returnable to the court for inspection. Proposed law also provides that if the court determines that the videotape is relevant and necessary to the case, the court shall order in writing the videotape be disclosed to the attorneys of record for each party subject to a protective order pursuant to proposed law.

Proposed law requires certain information be included in the protective order. Proposed law states that violations of proposed law is punishable as contempt of court.

Proposed law does not prevent DCFS or law enforcement from sharing information as authorized or required by state or federal law.

Proposed law provides that files, reports, records, communications, working papers, or videotaped interviews used or developed in providing services under Title V, Part II of the Children's Code are confidential and not subject to the public records.

Proposed law provides that disclosure of any files, reports, records, communications, or working papers of a child advocacy center may only be made pursuant to Ch.C. Art. 525 or by order of the juvenile court of competent jurisdiction pursuant to Ch.C. Art. 412.

Proposed law also provides that disclosure of videotaped interviews of protected persons shall be disclosed either pursuant to R.S. 15:440.1, et seq. or Ch.C. Art. 322, et seq.

(Adds R.S. 15:440.7 and 440.8 and Ch.C. Art. 328.1 and 328.2)