

CONFERENCE COMMITTEE REPORT

SB 146

2019 Regular Session

Morrell

May 31, 2019

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 146 by Senator Morrell, recommend the following concerning the Reengrossed bill:

1. That House Committee Amendment Nos. 1 through 25 proposed by the House Committee on Administration of Criminal Justice and adopted by the House of Representatives on May 23, 2019 , be adopted.
2. That Legislative Bureau Amendment Nos. 1 through 3 proposed by the Legislative Bureau and adopted by the House on May 23, 2019, by adopted.
3. That House Floor Amendment Nos. 1 through 3 proposed by Representative Duplessis and adopted by the House on May 31, 2019, be rejected.

Respectfully submitted,

Senators:

Representatives:

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Senator Jean-Paul J. Morrell

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Representative Royce Duplessis

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Senator Dan Claitor

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Representative Sherman Mack

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Senator Karen Carter Peterson

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Representative Rodney Lyons

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

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## CONFERENCE COMMITTEE REPORT DIGEST

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### Keyword and summary of the bill as proposed by the Conference Committee

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

### Report adopts House amendments that:

1. Specify that a judge cannot order a material witness warrant solely to secure the attendance or testimony of a victim listed in the indictment or bill of information in a felony prosecution.
2. Specify that "dating partner" for purposes of proposed law has the same meaning as provided in the present law Protection from Dating Violence Act.
3. Change certain references in proposed law from "witness" to "victim".
4. Provide that only a qualified victim for which a material witness warrant is being sought pursuant to proposed law has standing to raise the protections provided in proposed law.
5. Provide that a victim who is indigent is authorized to apply for counsel for a bond hearing, instead of a providing the victim a right to appointed counsel.
6. Change references in proposed law from "criminal justice agency" to "district attorney or other prosecution agency."
7. Change references in proposed law from "Department of Justice" to "Louisiana Commission on Law Enforcement and Administration of Criminal Justice."
8. With regard to reporting requirements relative to the number of material witness warrants applied for, specify that the report is to include those warrants applied for pursuant to proposed law and have been filed into the record of any criminal prosecution proceeding within their jurisdiction.
9. Remove the requirement that the report include the name and contact information of agencies that have failed to submit required reports.
10. Make technical changes.

### Report rejects House amendments that would have:

1. Deleted applicability of proposed law to offenses where the victim is the current or former spouse or dating partner of the defendant rather than where the victim is listed in the indictment or bill of information of the pending felony charge.
2. Deleted proposed law requirement that the matter be pending before the court.

### Digest of the bill as proposed by the Conference Committee

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 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 an exception to present law for material witness warrants for victims of sex offenses and intimate partner violence.

Proposed law provides that in certain misdemeanor cases, defined as sex offenses under present law, or the present law crimes of battery of a dating partner, domestic abuse battery, or domestic abuse aggravated assault, a judge cannot order a material witness warrant to secure the presence of a victim.

Proposed law provides that in certain felony prosecution cases, defined as sex offenses under present law, or the present law crimes of battery of a dating partner, domestic abuse battery, or domestic abuse aggravated assault against a current or former spouse, a judge cannot order a material witness warrant solely for the purpose of securing the attendance or testimony of a victim, unless an applicant presents an affidavit to the judge attesting to all of the following:

- (1) Efforts made by the applicant to secure the victim's appearance in court.
- (2) The victim's testimony is essential to the prosecution or defense of a criminal proceeding.
- (3) The affidavit is filed in compliance with present law.

Proposed law provides that only a qualified victim for which a material witness warrant is sought pursuant to proposed law has standing to raise the protections afforded by proposed law.

Proposed law provides that when the appearance of a secured victim occurs, immediate notification must be made to the judge who signed the warrant, the duty judge, or magistrate, as well as the applicant who requested the order.

Proposed law provides that upon notification that the victim has been secured, the victim is to be brought before the judge pursuant to the following:

- (1) Within the jurisdiction of the issued material warrant, the secured victim is to be brought before the judge on the next scheduled business day.
- (2) Outside the jurisdiction of the issued material warrant, the secured victim is to be brought before the judge as soon as practically possible.

Proposed law provides that the judge is to explore all available alternatives to incarceration to ensure the victim's appearance in court, and notify the victim of certain rights, including a right to retain or apply for counsel.

Proposed law provides a presumption that the victim be released on his own recognizance.

Proposed law provides certain conditions of release for secured victim, including bond supervision, GPS monitoring, treatment facilities, shelters, lodging, or services offered by community partners or victim witness assistance coordinators.

Proposed law provides that the judge may order that the secured victim be placed in protective custody as an alternative to incarceration. Proposed law further provides that, if possible, a victim will not be incarcerated in the same institution as the defendant.

Proposed law provides for a reporting system of information regarding material witness warrant data.

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

(Amends R.S. 15:257; Adds R.S. 15:257.1 and 625)