

## RÉSUMÉ DIGEST

ACT 410 (SB 146)

2019 Regular Session

Morrell

Prior law provided 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. Prior law further provided 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.

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

New law provides that in certain misdemeanor cases, defined as sex offenses under prior law, or the prior 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.

New law provides that in certain felony prosecution cases, defined as sex offenses under prior law, or the prior 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.

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

New 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.

New 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.

New 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.

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

New 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.

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

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

Effective upon signature of governor (June 11, 2019).

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