

2022 Regular Session

HOUSE BILL NO. 615

BY REPRESENTATIVE FREEMAN

LAW ENFORCEMENT: Provides relative to law enforcement records

1 AN ACT

2 To amend and reenact R.S. 44:3(A)(4)(b)(ii) and to enact R.S. 44:3(K), relative to public
3 records; to provide relative to disclosure; to provide relative to law enforcement
4 investigative records; to provide for disclosure to certain individuals; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 44:3(A)(4)(b)(ii) is hereby amended and reenacted and R.S. 44:3(K)
8 is hereby enacted to read as follows:

9 §3. Records of prosecutive, investigative, and law enforcement agencies and
10 communications districts

11 A. Nothing in this Chapter shall be construed to require disclosures of
12 records, or the information contained therein, held by the offices of the attorney
13 general, district attorneys, sheriffs, police departments, Department of Public Safety
14 and Corrections, marshals, investigators, public health investigators, correctional
15 agencies, communications districts, intelligence agencies, Council on Peace Officer
16 Standards and Training, Louisiana Commission on Law Enforcement and
17 Administration of Criminal Justice, or publicly owned water districts of the state,
18 which records are:

19 * * *

1 (4)

2 * * *

3 (b) The initial report shall set forth:

4 * * *

5 (ii) The name and identification of each and every person who is a witness
6 to, a suspect charged with, or arrested for the alleged offense, unless prohibited or
7 protected by federal law or state law not contained in this Title.

8 * * *

9 K.(1) Unless prohibited by federal law or state law not contained in this
10 Title, if a victim of an offense or his designated family member requests an
11 opportunity to review or copy any portion of records related to the offense against
12 the victim, the agency shall allow the victim or his designated family member to
13 review and copy the records unless the agency certifies in writing that the matter is
14 subject to actual or reasonably anticipated criminal litigation.

15 (2) Any document that an agency provides to any defendant after prosecution
16 of an offense has been initiated shall, upon request from the victim or a designated
17 family member, also be made available for review and copying by the requestor
18 unless the agency certifies in writing that the records are being withheld because
19 information in them could materially affect the prosecution or a related investigation.

20 (3) Nothing in this Subsection shall be construed to prohibit an agency from
21 in its discretion allowing a victim of an offense or his family member to review or
22 copy any record related to the offense, provided the agency determines it would not
23 reasonably impair any ongoing investigation or prosecution.

24 (4) For purposes of this Subsection, "designated family member" and
25 "victim" have the same meanings as that provided by R.S. 46:1842.

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 615 Reengrossed

2022 Regular Session

Freeman

Abstract: Provides relative to the disclosure of investigative records to a victim of a sex offense.

Present law (R.S. 44:3) provides relative to records of law enforcement agencies. Present law provides for circumstances where records are not required to be disclosed.

Present law provides that the arrest records of a person, other than the investigative police report, shall not be disclosed until a final judgment of conviction or guilty plea. Present law provides that the initial report of the officer's investigation records of the booking of the person, records of the issuance of a summons or citation, and records of the filing of a bill of information are public record.

Present law details what the initial report shall set forth including a narrative description of the alleged offense and the name and identification of each person charged with or arrested for the alleged offense.

Proposed law retains present law and provides that the report shall contain each and every person who is a witness of the alleged offense.

Proposed law provides that the initial report is not required to include names and identification of persons if such is prohibited by federal law or state law other than public records laws.

Proposed law provides that the agency shall allow the review and copy of such records, if requested by the victim of an offense or designated family member, unless the agency certifies in writing that the records are subject to actual or reasonably anticipated criminal litigation.

Proposed law provides that the agency shall provide, to a victim of an offense or his family member, any document that has been provided to any defendant after prosecution of an offense has been initiated, unless the agency certifies in writing that the records are being withheld because information in them could materially affect the prosecution or related investigation.

Proposed law provides that proposed law shall not be construed as prohibiting an agency from allowing the release of the record to the victim or designated family member provided the agency determines it would not reasonably impair any ongoing investigation or prosecution.

(Amends R.S. 44:3(A)(4)(b)(ii); Adds R.S. 44:3(K))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Remove provisions of proposed law relative to access to records prepared by an attorney acting on behalf of a public body and authorizing the custodian to redact

mental impressions and legal advice consistent with the attorney-client privilege from such records.

2. Remove proposed law providing that present law does not prohibit release of any portion of an investigation to a victim or family member unless the custodian determines that the release would materially affect pending or anticipated criminal litigation and providing that if such a determination was made the victim shall be entitled to receive a status update on the charges and investigation within 10 days and prohibiting withholding a report from a victim after a period of 45 days.
3. Add proposed law regarding a victim's access to records regarding a sex offense as outlined in the above digest.

The House Floor Amendments to the engrossed bill:

1. Make proposed law applicable to records of any offense rather than only sex offenses.
2. Condition requirement for identification of persons in an initial report on such identification not being prohibited by law.