
SENATE FLOOR AMENDMENTS

2019 Regular Session

Amendments proposed by Senator Morrell to Engrossed Senate Bill No. 146 by Senator Morrell

1 AMENDMENT NO. 1

2 On page 1, line 2, after "R.S. 15:257" insert "and to enact R.S. 15:257.1 and 625"

3 AMENDMENT NO. 2

4 On page 1, line 2, after "process;" delete the remainder of the line and delete line 3, and
5 insert:

6 "to provide limitations of arrest and incarceration of victims of domestic violence
7 and sexually oriented criminal offenses who refuse to testify"

8 AMENDMENT NO. 3

9 On page 1, line 6, after "reenacted" insert "and R.S. 15:257.1 and 625 are hereby enacted"

10 AMENDMENT NO. 4

11 On page 1, line 8, change "Subsection B of this Section" to "R.S. 15:257.1"

12 AMENDMENT NO. 5

13 On page 2, delete lines 1 through 7, and insert:

14 **§257.1. Exception for material witness warrants for victims of sex offenses and**
15 **intimate partner violence; legislative intent**

16 **A. The legislature hereby finds and declares that domestic violence and**
17 **sexual assault are major public health problems and violations of human rights.**
18 **The legislature further finds that in order to be in compliance with the Violence**
19 **Against Women Act, this statute is meant to discourage the use of material**
20 **witness warrants and enforce the premise that the use of material witness**
21 **warrants for victims of intimate partner violence or sex crimes is an**
22 **extraordinary measure that should only be used when absolutely necessary and**
23 **that any incarceration shall only occur after all other remedies have been**
24 **exhausted in order to prevent further victimization and trauma to the victims.**

25 **B. A judge shall not order a material witness warrant to secure the**
26 **presence of a victim listed in the indictment or bill of information in a**
27 **misdemeanor prosecution in cases where the instituted charges are one of a sex**
28 **offense under R.S. 15:541 or a listed victim in the indictment or bill of**
29 **information of a misdemeanor offense committed under R.S. 14:34.9 (Battery**
30 **of a Dating Partner) or R.S. 14:35.3 (Domestic Abuse Battery) that is a pending**
31 **matter before a court.**

32 **C. (1) A judge shall not order a material witness warrant to secure the**
33 **presence of a victim listed in the indictment or bill of information in a felony**
34 **prosecution in cases where the instituted charges are either:**

35 **(a) A sex offense under R.S. 15:541.**

36 **(b) A case where the instituted charges are of an offense committed**
37 **under: R.S. 14:34.9 (Battery of a Dating Partner), R.S. 14:35.3 (Domestic Abuse**
38 **Battery), R.S. 14:37.7 (Domestic Abuse Aggravated Assault), R.S. 14:34.9.1**
39 **(Aggravated Assault upon a Dating Partner).**

40 **(c) A case where the victim listed in the indictment or bill of information**
41 **of the current felony charge pending before the court is the current or former**
42 **spouse or the current or former dating partner, regardless of whether or not the**
43 **individuals reside in the same household that is a pending matter before a court.**

1 (2) Notwithstanding Paragraph (1) of this Subsection, a judge may order
2 a material witness warrant to secure the presence of a victim listed in the
3 indictment or bill of information in a felony prosecution if the applicant
4 presents an affidavit to the judge attesting to all of the following:

5 (a) The efforts made by the applicant to secure the witness's appearance
6 in court.

7 (b) That the testimony of the witness is essential to the prosecution or
8 defense of a criminal proceeding.

9 (c) The filing of the affidavit made pursuant to this Section is filed in
10 compliance with R.S. 46:1844(W).

11 D. Appearance of the secured victim after execution of the material
12 witness warrant.

13 (1) When a witness who is a victim of any of the above enumerated
14 offenses is secured pursuant to a material witness warrant issued by a judge,
15 notification shall immediately be made to the judge who signed the warrant and
16 the duty judge or magistrate, as well as the applicant who requested the order.
17 Upon notification that the witness has been secured:

18 (a) Inside of the jurisdiction where the material warrant was issued, the
19 victim shall be brought before a judge on the next scheduled business day.

20 (b) Outside of the jurisdiction in which the warrant was issued, the
21 victim shall be brought before the judge as soon as practically possible.

22 (2) Once the victim is brought before a judge, the judge shall explore all
23 available alternatives to incarceration to ensure the victim's appearance in
24 court.

25 (3) The witness shall be notified of the right to retain counsel or, if
26 indigent, shall be appointed counsel for a bond hearing.

27 E. Right to bail; presumption in favor of release.

28 (1) There shall be a presumption that a victim, as defined in Subsection
29 C of this Section, be released on his own recognizance.

30 (2) The court shall consider all least restrictive means to ensure the
31 witness's appearance in court pursuant to a subpoena, including but not limited
32 to imposing conditions of release such as:

33 (a) Bond supervision or GPS monitoring to be paid by the applicant of
34 the warrant.

35 (b) Treatment facilities, shelters, or lodging paid for by the applicant of
36 the warrant.

37 (3) The court shall notify the witness of services offered by community
38 partners or victim witness assistance coordinators.

39 F. Incarceration.

40 (1) The court shall exhaust all alternatives prior to ordering the
41 incarceration of a victim as defined in Subsection C of this Section.

42 (2) If a judge determines there are no alternatives that will secure the
43 victim's testimony, then the judge may order that the witness be placed in
44 protective custody. If practically possible, a victim shall not be incarcerated in
45 the same institution as the defendant.

46 G. Nothing in this Section shall be construed to limit the authority of the
47 district attorney or defendant from securing a witness outside the jurisdiction
48 of the court. Nothing in this Section shall be construed to create a release
49 mechanism for a witness if the witness is incarcerated for any reason unrelated
50 to a material witness warrant sought under this Section.

51 * * *

52 §625. Material witness warrant data; reporting

53 A. By February fifteenth of each year, each criminal justice agency shall
54 report all of the following information for the prior calendar year to the
55 Department of Justice:

56 (1) The number of material witness warrants applied for.

57 (2) The number of material witness warrants signed by a judge.

58 (3) The number of material witness warrants executed.

59 (4) The number of victims as defined in R.S. 15:257.1(C) incarcerated
60 pursuant to a material witness warrant.

1
2
3
4
5
6
7
8
9
10

B.(1) By March first of each year, the Department of Justice shall transmit the information required in Subsection A of this Section to the chairman of the Senate Committee on Judiciary C and the chairman of the House Committee on Judiciary and shall publish the information on the Department of Justice's website.

(2) The Department of Justice's report shall also include the name and contact information of each criminal justice agency that failed to submit the report required by Subsection A of this Section.

C. "Criminal justice agency" has the same meaning as defined in R.S. 15:624(D)(1)."