

Regular Session, 2012

SENATE BILL NO. 481

BY SENATOR PERRY

CRIMINAL PROCEDURE. Provides relative to discovery procedures for certain evidence in certain criminal proceedings. (gov sig)

1 AN ACT

2 To enact Code of Criminal Procedure Article 718.1 and to repeal R.S. 46:1845, relative to
3 discovery; to provide relative to discovery procedures in certain criminal cases; to
4 prohibit the reproduction of certain evidence in certain cases involving pornography
5 involving juveniles, video voyeurism, and obscenity; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 718.1 is hereby enacted to read as
9 follows:

10 **Art. 718.1. Prohibition on reproduction of pornography involving juveniles**

11 **A. In any criminal proceeding, any property or material that is alleged**
12 **to constitute evidence of obscenity as defined in R.S. 14:106(A)(2)(b) that is**
13 **unlawfully possessed, video voyeurism as defined in R.S. 14:283, or**
14 **pornography involving juveniles as defined in R.S. 14:81.1, shall remain in the**
15 **care, custody, and control of the court or the district attorney.**

16 **B. Notwithstanding any other provision of law to the contrary, the court**
17 **shall deny any request by the defendant to copy, photograph, duplicate, or**

1 **otherwise reproduce any property or material that is alleged to constitute**
 2 **evidence of obscenity as defined in R.S. 14:106(A)(2)(b) that is unlawfully**
 3 **possessed, video voyeurism as defined in R.S. 14:283, or pornography involving**
 4 **juveniles as defined in R.S. 14:81.1, provided that the district attorney makes**
 5 **the property or material reasonably available to the defendant.**

6 **C. For purposes of this Article, the property or material shall be deemed**
 7 **reasonably available to the defendant if the district attorney provides ample**
 8 **opportunity for the inspection, viewing, and examination at the office of the**
 9 **district attorney of the property or material by the defendant, the defendant's**
 10 **attorney, and any individual the defendant may seek to qualify to furnish expert**
 11 **testimony at trial.**

12 Section 2. R.S. 46:1845 is hereby repealed in its entirety.

13 Section 3. This Act shall become effective upon signature by the governor or, if not
 14 signed by the governor, upon expiration of the time for bills to become law without signature
 15 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 16 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 17 effective on the day following such approval.

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

DIGEST

Present law provides special procedures for the protection of privacy of a victim when evidence pertains to child pornography, video voyeurism, or obscenity, including motions by the district attorney or the court to limit the access to such evidence or copies thereof.

Present law further provides that the court, upon motion of the district attorney, may order the destruction of the evidence.

Proposed law repeals these provisions of present law and further provides that in any criminal proceeding, any property or material that is alleged to constitute evidence of pornography involving juveniles, video voyeurism, or certain instances of obscenity is to remain in the care, custody, and control of the court or the district attorney.

Proposed law further provides that the court is to deny any request by the defendant to copy, photograph, duplicate, or otherwise reproduce such evidence, provided that the district attorney makes the property or material reasonably available to the defendant providing ample opportunity for the inspection, viewing, and examination at the office of the district attorney by the defendant, the defendant's attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.

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

(Adds C.Cr.P. Art. 718.1; repeals R.S. 46:1845)