

Existing law (R.S. 13:3667.3), in any civil or criminal misdemeanor case, or administrative proceeding in which a legislator is being subpoenaed to testify in his capacity as a state lawmaker or in which a legislative employee is being subpoenaed to testify in his official capacity, requires the requesting party to file a motion and requires the judge (or in the case of administrative proceedings, the agency, presiding officer, or administrative law judge) to conduct a hearing prior to the issuance of a subpoena.

Existing law further requires the requesting party to set forth the facts which he seeks to elicit from the legislator or employee, the relevance of those facts to the case, and the basis for the party's belief that the legislator or employee has knowledge of those facts. Additionally, existing law requires the party to show cause why the testimony is not privileged under the privileges and immunities provision of the state constitution. Existing law requires the judge (or in the case of administrative proceedings, the agency, presiding officer, or administrative law judge) to hold a hearing if he finds the motion to be well-founded and a denial would prejudice the requesting party. Existing law requires 15-day notice of the hearing to be given to the member or employee, the attorney general, and clerk of the House or secretary of the Senate and requires the notice to contain the same information as required in the motion. Existing law provides for supervisory writs for noncompliance.

New law extends the hearing requirements and other existing law provisions to a former legislator in his former capacity as a lawmaker.

Existing law provides rules of discovery in three general areas: civil proceedings (C.C.P. Art. 1469(5)), criminal proceedings (C.Cr.P. Art. 740), and administrative hearings (R.S. 49:956.1).

New law retains existing law in each of these three areas and extends the application of these provisions to a former legislator in his former capacity as a lawmaker.

Effective August 1, 2012.

(Amends C.C.P. Art. 1469(5), C.Cr.P. Art. 740, R.S. 13:3667.3(B), and R.S. 49:956.1)