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

# DIGEST 2019 Regular Session

Morrell

SB 146 Reengrossed

<u>Present law</u> provides 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 a defendant, a judge is to issue a warrant for the arrest of the witness. <u>Present law</u> further provides 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.

<u>Proposed law provides an exception to present law for material witness warrants for victims of sex offenses and intimate partner violence.</u>

<u>Proposed law provides that in certain misdemeanor prosecution cases, defined as a sex offense under present law</u>, or the <u>present law crimes</u> of battery of a dating partner, domestic abuse battery, or domestic abuse aggravated assault, a judge shall not order a material witness warrant to secure the presence of a victim.

<u>Proposed law</u> provides that in certain felony prosecution cases, defined as a sex offense under <u>present law</u> or the <u>present law</u> crimes of battery of a dating partner, domestic abuse battery, or domestic abuse aggravated assault against a current or former spouse, a judge shall not order a material witness warrant to secure the presence 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 witness's appearance in court.
- (2) The witness testimony is essential to the prosecution or defense of a criminal proceeding.
- (3) The affidavit is filed in compliance with <u>present law</u>.

Proposed 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.

Proposed law provides that upon notification that the witness has been secured:

- (1) Within the jurisdiction of the issued material warrant, the secured victim shall be brought before the judge on the next scheduled business day.
- (2) Outside the jurisdiction of the issued material warrant, the secured victim shall be brought

before the judge as soon as practically possible.

<u>Proposed law</u> provides that the judge shall explore all available alternatives to incarceration to ensure the victim's appearance in court, and be notified of certain rights, including a right to counsel.

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

<u>Proposed law</u> provides certain conditions of release for such secured victim such as bond supervision, GPS monitoring, treatment facilities, shelters, lodging, or services offered by community partners or victim witness assistance coordinators.

<u>Proposed law</u> provides that the judge may order that the secured victim be placed in protective custody as an alternative to incarceration. If possible, a victim shall not be incarcerated in the same institution as the defendant.

<u>Proposed law</u> provides for a reporting system of information regarding material witness warrant data.

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

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

#### Summary of Amendments Adopted by Senate

## Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Makes <u>proposed law</u> applicable to both the prosecution and the defense instead of only applicable to the prosecution.

## Summary of Amendments Adopted by Senate

#### Senate Floor Amendments to engrossed bill

- 1. Deletes the provision which prohibits the arrest and incarceration of victims of domestic violence and sexual assault who refuse to testify against their abusers.
- 2. Adds a provision to provide limitations of arrest and incarceration of victims of domestic violence and sexually oriented criminal offenses who refuse to testify against their abusers.
- 3. Makes technical corrections.