

2024 Regular Session

HOUSE BILL NO. 443

BY REPRESENTATIVES COATES, AMEDEE, BERAULT, BILLINGS, CHENEVERT, DAVIS, DICKERSON, FREEMAN, LAFLEUR, MOORE, PHELPS, TAYLOR, WALTERS, BRAUD, BUTLER, ROBBY CARTER, DEWITT, DOMANGUE, EDMONSTON, FIRMENT, FISHER, FREIBERG, MIKE JOHNSON, MACK, OWEN, WYBLE, AND ZERINGUE

CIVIL/LAW: Provides relative to confidentiality of records in cases involving certain protected persons

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(8) and (39) and to enact R.S. 15:440.7 and 440.8 and  
3 Children's Code Articles 328.1 and 328.2, relative to records of protected persons;  
4 to provide procedures for subpoenas of videos of protected persons; to provide an  
5 exception to the Public Records Law; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:440.7 and 440.8 and hereby enacted to read as follows:

8 §440.7. Admissibility in civil, family, and administrative proceedings; discovery;  
9 confidentiality

10 A.(1) Courts with civil or family jurisdiction or administrative law judges  
11 may authorize the issuance of a subpoena duces tecum for the production of a  
12 videotape of a protected person made pursuant to this Section for good cause shown.  
13 The subpoena duces tecum shall order the videotape of the protected person be  
14 returnable to the court for inspection. If the court determines that the videotape is  
15 relevant and necessary to the case under review, the court may order in writing the  
16 videotape be disclosed to the attorneys of record for each party subject to a protective  
17 order pursuant to Paragraph (A)(2) of this Section.

18 (2) The protective order shall include all of the following information:

1           (a) Name of the attorneys of record in the case and their regularly employed  
2           staff, paralegal, or expert witnesses who are the only individuals permitted to view  
3           or be in possession of the videotape.

4           (b) The videotape is in the exclusive custody of the court and that the  
5           videotape shall not be copied, photographed, duplicated, or otherwise reproduced  
6           except as a written transcript that protects the identity of the protected person by the  
7           use of initials.

8           (c) If the party is not represented by an attorney, the party and the employees  
9           or retained expert witnesses of the party shall not be given a copy of the videotape  
10          but shall be given reasonable access to view the recording by the custodian of the  
11          recording.

12          (d) Attorneys and custodians of the videotape shall file their copy of the  
13          videotape under seal into the record of the proceedings upon termination of  
14          representation or upon disposition of the matter at the trial level.

15          (e) The unlawful possession, selling, duplicating, distributing, transferring,  
16          or copying of any videotape of protected persons is punishable pursuant to R.S.  
17          14:81.5.

18          B. Any violation of this Section shall be punishable as contempt of court.

19          C. Nothing in this Section shall prevent the Department of Children and  
20          Family Services or law enforcement from sharing information as authorized or  
21          required by state or federal law.

22          §440.8. Confidentiality of records; child advocacy centers

23          The files, reports, records, communications, working papers, or videotaped  
24          interviews used or developed in providing services under Title V, Part II of the  
25          Children's Code are confidential and not subject to the Public Records Law.  
26          Disclosure of any files, reports, records, communications, or working papers of a  
27          child advocacy center may be made only pursuant to Children's Code Article 525 or  
28          by order of the juvenile court of competent jurisdiction pursuant to Children's Code  
29          Article 412. Disclosure of videotaped interviews of protected persons shall be

1 disclosed either pursuant to R.S. 15:440.1, et seq., or Children's Code Article 322,  
2 et seq.

3 Section 2. Children's Code Articles 328.1 and 328.2 are hereby enacted to read as  
4 follows:

5 Art. 328.1. Admissibility in civil, family, and administrative proceedings;  
6 discovery; confidentiality

7 A.(1) A court with civil or family jurisdiction or an administrative law judge  
8 may authorize the issuance of a subpoena duces tecum for the production of a  
9 videotape of a protected person made pursuant to this Article for good cause shown.  
10 The subpoena duces tecum shall order the videotape of the protected person be  
11 returnable to the court for inspection. If the court determines that the videotape is  
12 relevant and necessary to the case under review the court may order in writing that  
13 the videotape be disclosed to the attorneys of record for each party subject to a  
14 protective order pursuant to this Subparagraph (A)(2) of this Article.

15 (2) The protective order shall include all of the following information:

16 (a) Name of the attorneys of record in the case and their regularly employed  
17 staff, paralegal, or expert witnesses who are the only individuals permitted to view  
18 or be in possession of the videotape.

19 (b) The videotape is in the exclusive custody of the court and that the  
20 videotape shall not be copied, photographed, duplicated, or otherwise reproduced  
21 except as a written transcript that protects the identity of the protected person by the  
22 use of initials.

23 (c) If the party is not represented by an attorney, the party and the employees  
24 or retained expert witnesses of the party shall not be given a copy of the videotape  
25 but shall be given reasonable access to view the recording by the custodian of the  
26 recording.

27 (d) Attorneys and custodians of the videotape shall file their copy of the  
28 videotape under seal into the record of the proceedings upon termination of  
29 representation or upon disposition of the matter at the trial level.

1           (e) The unlawful possession, selling, duplicating, distributing, transferring,  
2           or copying of any videotape of protected persons is punishable pursuant to R.S.  
3           14:81.5.

4           B. Any violation of this Article shall be punished as contempt of court.

5           C. Nothing in this Article is intended to restrict the ability of the Department  
6           of Children and Family Services or law enforcement from sharing information as  
7           authorized or required by state or federal law.

8           Art. 328.2 Confidentiality of records; child advocacy centers

9           The files, reports, records, communications, working papers, or videotaped  
10           interviews used or developed in providing services under Title V, Part II of the  
11           Children's Code are confidential and not subject to the Public Records Law.  
12           Disclosure of any files, reports, records, communications, or working papers of a  
13           child advocacy center may be made only pursuant to Children's Code Article 525 or  
14           by order of the juvenile court of competent jurisdiction pursuant to Children's Code  
15           Article 412. Disclosure of videotaped interviews of protected persons shall be  
16           disclosed either pursuant to R.S. 15:440.1, et seq. or Children's Code Article 322, et  
17           seq.

18           Section 3. R.S. 44:4.1(B)(8) and (39) are hereby amended and reenacted to read as  
19 follows:

20           §4.1. Exceptions

21   \*       \*       \*

22           B. The legislature further recognizes that there exist exceptions, exemptions,  
23 and limitations to the laws pertaining to public records throughout the revised  
24 statutes and codes of this state. Therefore, the following exceptions, exemptions, and  
25 limitations are hereby continued in effect by incorporation into this Chapter by  
26 citation:

27   \*       \*       \*

1 (8) R.S. 15:242, 440.6, 440.8, 477.2, 549, 570, 574.12, 578.1, 587, 587.1.2,  
2 616, 660, 840.1, 1176, 1204.1, 1212.1(E), 1507

3 \* \* \*

4 (39) Children's Code Articles 328, 328.2, 404, 412, 424.6, 424.9, 441, 543,  
5 545, 615, 616, 616.1, 663, 737, 793, 888, 891, 893, 920, 921, 922, 1007, 1106, 1107,  
6 1185, 1186, 1187, 1207, 1213, 1229, 1235, 1252, 1273, 1283.5, 1283.10, 1416, 1453,  
7 1568

8 \* \* \*

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 443 Re-Reengrossed

2024 Regular Session

Coates

**Abstract:** Establishes procedures for subpoenas of videos of protected persons.

Proposed law provides that courts with civil or family jurisdiction or administrative law judges may authorize the issuance of a subpoena duces tecum for the production of a videotape of a protected person made pursuant to proposed law for good cause shown.

Proposed law requires the subpoena duces tecum to order the videotape of the protected person be returnable to the court for inspection. Proposed law also provides that if the court determines that the videotape is relevant and necessary to the case, the court may order that the videotape be disclosed to the attorneys of record for each party subject to a protective order pursuant to proposed law.

Proposed law requires certain information be included in the protective order. Proposed law states that violations of proposed law are punishable as contempt of court.

Proposed law does not prevent Dept. of Children and Family Services or law enforcement from sharing information as authorized or required by state or federal law.

Proposed law provides that files, reports, records, communications, working papers, or videotaped interviews used or developed in providing services under Title V, Part II of the Children's Code are confidential and not subject to the Public Records Law.

Proposed law provides that disclosure of any files, reports, records, communications, or working papers of a child advocacy center may be made only pursuant to Ch.C. Art. 525 or by order of the juvenile court of competent jurisdiction pursuant to Ch.C. Art. 412.

Proposed law also provides that disclosure of videotaped interviews of protected persons shall be disclosed either pursuant to R.S. 15:440.1, et seq. or Ch.C. Art. 322, et seq.

(Amends R.S. 44:4.1(B)(8) and (39); Adds R.S. 15:440.7 and 440.8 and Ch.C. Art. 328.1 and 328.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Make technical changes.
2. Provide that if the court determines that a videotape is relevant and necessary to the case, the court may order in writing that the videotape be disclosed to the attorneys of record for each party subject to a protective order.

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

1. Add a reference in the Public Records Law to the public records exception established in proposed law.

The House Floor Amendments to the reengrossed bill:

1. Make technical changes.