

Regular Session, 2012

HOUSE BILL NO. 594

BY REPRESENTATIVE LOPINTO

CRIMINAL/DISCOVERY: Provides relative to discovery procedures for certain evidence in certain criminal proceedings

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. Evidence of obscenity, video voyeurism, or pornography involving  
11 juveniles

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

17 B. Notwithstanding any other provision of law to the contrary, the court shall  
18 deny any request by the defendant to copy, photograph, duplicate, or otherwise  
19 reproduce any property or material that is alleged to constitute evidence of obscenity  
20 as defined in R.S. 14:106(A)(2)(b) that is unlawfully possessed, video voyeurism as  
21 defined in R.S. 14:283, or pornography involving juveniles as defined in R.S.

1        14:81.1, provided that the district attorney makes the property or material reasonably  
2        available to the defendant.

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

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 R.S. 46:1845 is hereby repealed in its entirety.

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#### 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)]

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Lopinto

HB No. 594

**Abstract:** Provides special discovery procedures for certain evidence in criminal proceedings involving pornography involving juveniles, video voyeurism, and certain instances of obscenity.

Present law (R.S. 46:1845) 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 present law provision (R.S. 46:1845) and provides that in any criminal proceeding, any property or material that is alleged to constitute evidence of obscenity that is unlawfully possessed, video voyeurism, or pornography involving juveniles shall remain in the care, custody, and control of the court or the district attorney.

Proposed law further provides that the court shall 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.

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