

2018 Regular Session

HOUSE BILL NO. 79

BY REPRESENTATIVE MACK

CRIME: Creates the crime of abuse of persons with infirmities through electronic means and provides for criminal penalties and exceptions

1 AN ACT

2 To enact R.S. 14:283.3, relative to abuse of persons with infirmities; to create the crime of
3 abuse of persons with infirmities through electronic means; to provide for
4 exceptions; to provide for penalties; to provide for definitions; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:283.3 is hereby enacted to read as follows:

8 §283.3. Abuse of persons with infirmities through electronic means

9 A. Abuse of persons with infirmities through electronic means is:

10 (1) The use of any camera, videotape, photo-optical, photo-electric,
11 unmanned aircraft system, or any other image recording device for the purpose of
12 observing, viewing, photographing, filming, or videotaping a person who is infirm,
13 has a disability, or is aged and who is incapable of consenting to the electronic
14 recording due to either of the following:

15 (a) The person is sixty-five years of age or older.

16 (b) Unsoundness of mind, stupor, abnormal condition of the mind, or other
17 mental or developmental disability, regardless of the age of the victim.

18 (2) The transfer of an image obtained by any activity described in Paragraph
19 (1) of this Subsection by live or recorded telephone message, electronic mail, the
20 internet, or a commercial online service with the malicious and willful intent to

1 embarrass, shame, harass, coerce, abuse, torment, or intimidate, regardless of
2 whether the victim has knowledge of the transfer.

3 B.(1) Whoever commits the crime of abuse of persons with infirmities
4 through electronic means shall, upon a first conviction thereof, be fined not more
5 than one thousand dollars or imprisoned for not more than six months, or both.

6 (2) On a second or subsequent conviction, the offender shall be fined not
7 more than two thousand dollars and imprisoned at hard labor for not less than one
8 year nor more than three years without benefit of parole, probation, or suspension of
9 sentence.

10 C. The provisions of this Section shall not apply to the transference of such
11 images by a telephone company, cable television company, or any of its affiliates,
12 an internet provider, or commercial online service provider, or to the carrying,
13 broadcasting, or performing of related activities in providing telephone, cable
14 television, internet, or commercial online services.

15 D. Any evidence resulting from the commission of abuse of persons with
16 infirmities through electronic means shall be contraband.

17 E. For purposes of this Section, "unmanned aircraft system" means an
18 unmanned, powered aircraft that does not carry a human operator, can be
19 autonomous or remotely piloted or operated, and can be expendable or recoverable.

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 79 Original

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Mack

Abstract: Creates the crime of abuse of persons with infirmities through electronic means and provides for criminal penalties, exceptions to the offense, and for definitions.

Proposed law creates the crime of abuse of persons with infirmities through electronic means and defines such offense as either of the following:

- (1) The use of any camera, videotape, photo-optical, photo-electric, unmanned aircraft system, or any other image recording device for the purpose of observing, viewing, photographing, filming, or videotaping a person who is infirm, has a disability, or is aged and who is incapable of consenting to the electronic recording because the person is either: (a) 65 years of age or older, or (b) because of unsoundness of mind,

stupor, abnormal condition of the mind, or other mental or developmental disability, regardless of the age of the victim.

- (2) The transfer of an image obtained by any activity described in Paragraph (1) above by live or recorded telephone message, electronic mail, the internet, or a commercial online service with the malicious and willful intent to embarrass, shame, harass, coerce, abuse, torment, or intimidate, regardless of whether the victim has knowledge of the transfer.

Proposed law provides for the following penalties:

- (1) First offense conviction - a fine of not more than \$1,000, imprisonment for up to six months, or both.
- (2) Second or subsequent offense conviction - a fine of not more than \$2,000, and imprisonment at hard labor for one to three years, without benefit of parole, probation, or suspension of sentence.

Proposed law provides an exception to this offense for a telephone company, cable television company, or any of its affiliates, an internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, internet, or commercial online services.

Proposed law provides that any evidence resulting from the commission of abuse of persons with infirmities through electronic means shall be contraband.

(Adds R.S. 14:283.3)