

Perry

HB No. 755

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

CHILDREN: Provides relative to victims of child pornography

DIGEST

Proposed law provides that in addition to general damages a victim of child pornography may be awarded exemplary damages upon proof that the injuries were caused by the wanton and reckless disregard for the rights and safety of the person through an act of pornography involving juveniles, regardless of whether the defendant was prosecuted for his acts.

Proposed law retains present law elements and penalties for the crime of pornography involving juveniles which is defined as:

- (1) The photographing, videotaping, filming, or otherwise reproducing visually of any sexual performance involving a child under the age of 17.
- (2) The solicitation, promotion, or coercion of any child under the age of 17 for the purpose of photographing, videotaping, filming, or otherwise reproducing visually any sexual performance involving a child under the age of 17.
- (3) The intentional possession, sale, distribution, or possession with intent to sell or distribute any photographs, films, videotapes, or other visual reproductions of any sexual performance involving a child under the age of 17.
- (4) The consent of a parent, legal guardian, or custodian of a child under the age of 17 for the purpose of photographing, videotaping, filming, or otherwise reproducing visually any sexual performance involving the child.

Proposed law retains present law penalties of a fine of not more than \$10,000 and imprisonment at hard labor for not less than two years or more than 10 years, without benefit of parole, probation, or suspension of sentence. Penalties when a victim is under the age of 13 years when the offender is 17 years of age or older shall be punished by imprisonment at hard labor for not less than 25 years nor more than 99 years. At least 25 years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Provides for monitoring by DPS&C through the use of electronic monitoring equipment for the remainder of his natural life.

Present law provides that any evidence of pornography involving a child under the age of 17 shall be contraband. Such contraband shall be seized in accordance with law and shall be disposed of in accordance with R.S. 46:1845 (privacy provisions applicable to crimes involving juveniles).

Proposed law requires law enforcement, after the filing of an indictment or bill of information, for the crime of pornography involving juveniles, to forward copies of any visual reproductions to the Internet crimes against children division of the attorney general's office.

Proposed law requires the Internet crimes against children division of the attorney general's office to forward the reproductions and certain other information to the National Center for Missing and Exploited Children.

Proposed law requires the Internet crimes against children division of the attorney general's office to provide to the prosecutor the law enforcement agency contact information provided by the National Center for Missing and Exploited Children for any identified victim of pornography involving juveniles.

Proposed law requires prosecuting agencies to submit to the attorney general's office certain information when a La. victim has been identified for inclusion in the database maintained by that office.

Proposed law provides that the failure to comply with proposed law shall not invalidate any sentence, plea, conviction, or other final disposition.

Proposed law provides that the failure to comply with proposed law shall not be a cause of action against the investigating law enforcement agency or any prosecuting authority or officer or agent thereof.

(Amends R.S. 14:81.1(F); Adds C.C. Art. 2315.3)

Summary of Amendments Adopted by House

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

1. Additionally requires prosecuting agencies to submit to the attorney general's office the contact information for the law enforcement agency which identified the victim for inclusion in the database maintained by that office.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the engrossed bill.

1. Clarifies that exemplary damages may be awarded upon proof that injuries were caused by a wanton and reckless disregard for the rights and safety of the person through an act of pornography involving juveniles as defined by R.S. 14:81.1.