

Regular Session, 2009

ACT No. 382

HOUSE BILL NO. 755

BY REPRESENTATIVES EDWARDS, BURFORD, TIM BURNS, CHANDLER, HINES,
JOHNSON, RICHARDSON, AND WILLMOTT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 14:81.1(F) and to enact Civil Code Article 2315.3, relative to
3 victims of child pornography; to provide for exemplary damages for children who
4 are victims of child pornography; to provide for the sharing of information between
5 law enforcement, the attorney general, and the National Center for Missing and
6 Exploited Children; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Civil Code Article 2315.3 is hereby enacted to read as follows:

9 Art. 2315.3. Additional damages; child pornography

10 In addition to general and special damages, exemplary damages may be
11 awarded upon proof that the injuries on which the action is based were caused by a
12 wanton and reckless disregard for the rights and safety of the person through an act
13 of pornography involving juveniles, as defined by R.S. 14:81.1, regardless of
14 whether the defendant was prosecuted for his acts.

15 Section 2. R.S. 14:81.1(F) is hereby amended and reenacted to read as follows:

16 §81.1. Pornography involving juveniles

17 * * *

18 F.(1) Any evidence of pornography involving a child under the age of
19 seventeen shall be contraband. Such contraband shall be seized in accordance with
20 law and shall be disposed of in accordance with R.S. 46:1845.

21 (2) Upon the filing of any information or indictment by the prosecuting
22 authority for a violation of this Section, the investigating law enforcement agency
23 which seized the photographs, films, videotapes, or other visual reproductions of

1 pornography involving juveniles shall provide copies of those reproductions to the
2 Internet crimes against children division within the attorney general's office.

3 (3) Upon receipt of the reproductions as provided in Paragraph (2) of this
4 Subsection, the Internet crimes against children division shall:

5 (a) Provide those visual reproductions to the law enforcement agency
6 representative assigned to the Child Victim Identification Program at the National
7 Center for Missing and Exploited Children.

8 (b) Request the Child Victim Identification Program provide the law
9 enforcement agency contact information for any visual reproductions recovered
10 which contain an identified victim of pornography involving juveniles as defined in
11 this Section.

12 (c) Provide case information to the Child Victim Identification Program, as
13 requested by the National Center for Missing and Exploited Children guidelines, in
14 any case where the Internet crimes against children division within the attorney
15 general's office identifies a previously unidentified victim of pornography involving
16 juveniles.

17 (4) The Internet crimes against children division shall submit to the
18 designated prosecutor the law enforcement agency contact information provided by
19 the Child Victim Identification Program at the National Center for Missing and
20 Exploited Children, for any visual reproductions involved in the case which contain
21 the depiction of an identified victim of pornography involving juveniles as defined
22 in this Section.

23 (5) In all cases in which the prosecuting authority has filed an indictment or
24 information for a violation of this Section and the victim of pornography involving
25 juveniles has been identified and is a resident of this state, the prosecuting agency
26 shall submit all of the following information to the attorney general for entry into the
27 Louisiana Attorney General's Exploited Children's Identification database maintained
28 by that office:

29 (a) The parish, district, and docket number of the case.

30 (b) The name, race, sex, and date of birth of the defendant.

(c) The identity of the victim.

(d) The contact information for the law enforcement agency which identified a victim of pornography involving juveniles, including contact information maintained by the Child Victim Identification Program and provided to the Internet crimes against children division in accordance with this Section.

(6) No sentence, plea, conviction, or other final disposition shall be invalidated due to failure to comply with the provisions of this Subsection, and no person shall have a cause of action against the investigating law enforcement agency or any prosecuting authority, or officer or agent thereof for failure to comply with the provisions of this Subsection.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____