

2020 Regular Session

SENATE BILL NO. 384

BY SENATOR REESE

CRIME/PUNISHMENT. Provides relative to the crime of unlawful posting of criminal activity for notoriety and publicity. (8/1/20)

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 718.1(A) and (B) and R.S. 14:107.4(D) and (E), relative to the crime of unlawful posting of criminal activity for notoriety and publicity; to provide relative to access to evidence of the crime; to provide relative to the disposition of evidence of the crime; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 718.1(A) and (B) are hereby amended and reenacted to read as follows:

Art. 718.1. Evidence of obscenity, video voyeurism, ~~or~~ pornography involving juveniles, or unlawful posting of criminal activity for notoriety and publicity; prohibition on reproduction of pornography involving juveniles

A. In any criminal proceeding, any property or material that is alleged to constitute evidence of obscenity as defined in R.S. 14:106(A)(2) that is unlawfully possessed, video voyeurism as defined in R.S. 14:283, ~~or~~ pornography involving juveniles as defined in R.S. 14:81.1, or unlawful posting of criminal activity for

1 **notoriety and publicity as defined in R.S. 14:107.4**, shall remain in the care,
2 custody, and control of the investigating law enforcement agency, the court, or the
3 district attorney.

4 B. Notwithstanding any other provision of law to the contrary, the court shall
5 deny any request by the defendant to copy, photograph, duplicate, or otherwise
6 reproduce any property or material that is alleged to constitute evidence of obscenity
7 as defined in R.S. 14:106(A)(2) that is unlawfully possessed, video voyeurism as
8 defined in R.S. 14:283, ~~or~~ pornography involving juveniles as defined in R.S.
9 14:81.1, **or unlawful posting of criminal activity for notoriety and publicity as**
10 **defined in R.S. 14:107.4**, provided that the district attorney makes the property or
11 material reasonably available to the defendant.

12 * * *

13 Section 2. R.S. 14:107.4(D) and (E) are hereby amended and reenacted to read as
14 follows:

15 §107.4. Unlawful posting of criminal activity for notoriety and publicity

16 * * *

17 D. After the institution of prosecution, access to, ~~and the disposition of~~ any
18 material seized as evidence of this offense shall be in accordance with ~~R.S. 46:1845~~
19 **Code of Criminal Procedure Article 718.1.**

20 E. Any evidence resulting from the commission of unlawful filming or
21 recording criminal activity shall be contraband. **The court, upon motion of the**
22 **district attorney and after a contradictory hearing, may order the destruction**
23 **of the contraband after it is determined that it is no longer needed as evidence.**

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 384 Engrossed

2020 Regular Session

Reese

Present law provides that it is unlawful for a person who is either a principal or accessory to a crime to obtain an image of the commission of the crime using any camera or other image recording device and to transfer that image by the use of a computer online service or other means of electronic communication for the purpose of gaining notoriety, publicity, or the attention of the public, subject to certain present law exceptions.

Proposed law retains present law.

Present law provides that after the institution of prosecution for the crime of unlawful posting of criminal activity, access to any material seized as evidence of this offense is to be in accordance with present law relative to access to evidence of certain offenses.

Proposed law makes a technical change to present law relative to the citation of present law regarding access and disposition of evidence of certain offenses, and otherwise retains present law.

Present law provides that any evidence resulting from the commission of unlawful filming or recording criminal activity is contraband.

Proposed law retains present law and adds that the court, upon motion of the district attorney and after a contradictory hearing, may order the destruction of the contraband after it is determined that it is no longer needed as evidence.

Present law provides that in any criminal proceeding, any property or material that is alleged to constitute evidence of the present law crimes of obscenity, video voyeurism, or pornography involving juveniles must remain in the care, custody, and control of the investigating law enforcement agency, the court, or the district attorney. Present law further provides that the court is to deny any request by the defendant to copy or otherwise reproduce any property or material that is alleged to constitute evidence of these present law crimes, provided that the district attorney makes the property or material reasonably available to the defendant.

Proposed law retains present law and adds that evidence of the present law crime of unlawful posting of criminal activity for notoriety and publicity is also subject to present law relative to access to evidence of certain crimes.

Effective August 1, 2020.

(Amends C.Cr.P. Art. 718.1(A) and (B) and R.S. 14:107.4(D) and (E))