

2025 Regular Session

HOUSE BILL NO. 103

BY REPRESENTATIVE GADBERRY

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

CRIME/SEX OFFENSES: Creates the crime of indecent visual depiction of a minor

1 AN ACT

2 To amend and reenact R.S. 15:541(24)(a) and to enact R.S. 14:81.7 and Code of Criminal  
3 Procedure Article 611(F), relative to offenses affecting sexual immorality; to create  
4 the crime of indecent visual depiction of a minor; to provide for penalties; to provide  
5 for exceptions; to provide for definitions; to provide with respect to sex offender  
6 registration and notification requirements; to provide relative to venue; and to  
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 14:81.7 is hereby enacted to read as follows:

10 §81.7. Indecent visual depiction of a minor

11 A. No person shall transmit an indecent visual depiction of the intimate parts  
12 of a minor child with the malicious and willful intent to abuse, cause emotional or  
13 physical distress, coerce, embarrass, harass, intimidate, provide sexual stimulation  
14 or gratification, shame, or torment. Lack of knowledge of age shall not constitute  
15 a defense.

16 B.(1) Whoever violates the provisions of this Section shall be imprisoned not  
17 more than six months, fined not less than one thousand dollars, or both.

18 (2) Upon a second conviction, the offender shall be imprisoned for not more  
19 than five years at hard labor, fined not less than five thousand dollars, or both.

1           (3) Upon a third or subsequent conviction, the offender shall be imprisoned  
2           at hard labor for not more than ten years, fined not less than ten thousand dollars, or  
3           both.

4           C. A violation of the provisions of Paragraph (B)(2) of this Section shall be  
5           considered a sex offense as defined in R.S. 15:541, and the offender shall be required  
6           to register as a sex offender as provided in Chapter 3-B of Title 15 of the Louisiana  
7           Revised Statutes of 1950.

8           D. The provisions of this Section shall not apply to an interactive computer  
9           service, electronic mail service provider, a provider of a telecommunications service  
10           or any information service as defined in 47 U.S.C. 153, or a system or access  
11           software provider that provides or enables computer access by multiple users to a  
12           computer server that was used by a person to commit any act prohibited by  
13           Subsection A of this Section.

14           E. The provisions of this Section shall not apply to a person who transmits  
15           an indecent visual depiction of the intimate parts of a minor child to any of the  
16           following:

17           (1) A caseworker or representative of the Department of Children and  
18           Family Services or any other state agency for the purpose of investigating potential  
19           child abuse or neglect.

20           (2) A medical professional for the purpose of seeking medical advice.

21           (3) A criminal justice agency in connection with a lawful criminal  
22           investigation.

23           (4) An attorney or court personnel in connection with any criminal or civil  
24           legal proceeding that arises due to a violation of this Section or any other provision  
25           of this Title that involves an unlawful visual depiction of a minor child.

26           (5) A parent, legal guardian, family member, or other person most familiar  
27           with the person under circumstances in which a reasonable person would know or  
28           understand that there is no malicious intent and that the visual depiction is to remain  
29           private. Such circumstances shall include but not be limited to any of the following:

1           (a) Visual depictions of prenatal care and services.

2           (b) Visual depictions of medical conditions for the purpose of obtaining  
3           medical treatment or advice.

4           (c) Visual depictions that do not appeal to prurient interest or are not patently  
5           offensive.

6           F. Any person or entity that obtains an indecent visual depiction of the  
7           intimate parts of a minor child pursuant to Subsection E of this Section shall take  
8           measures to restrict access to such depiction.

9           G. For the purposes of this Section:

10           (1) "Criminal justice agency" means any governmental agency, subunit of  
11           a governmental agency, or private agency that, through statutory authorization or a  
12           legal formal agreement with a governmental unit or agency, does any of the  
13           following:

14           (a) Has the power of investigation, arrest, detention, prosecution,  
15           adjudication, treatment, supervision, rehabilitation, or release of persons suspected,  
16           charged, or convicted of a crime.

17           (b) Collects, stores, processes, transmits, or disseminates criminal history  
18           records or crime information.

19           (2) "Indecent visual depiction" means any photograph, videotape, film,  
20           digital recording, or other reproduction that contains the intimate parts of a person  
21           under seventeen years of age. This term includes data stored on any computer,  
22           telecommunication device, or other electronic storage media which is capable of  
23           conversion into a visual image.

24           (3) "Intimate parts" means the fully unclothed, partially unclothed, or  
25           transparently clothed genitals, vagina, vulva, pubic area, or anus. If the person  
26           depicted is a female, "intimate parts" also means the partial or full exposure of fully  
27           developed or developing adolescent breasts or breast nipples, including exposure  
28           through transparent clothing.



1 14:89.2(B)(3) (crime against nature by solicitation), R.S. 14:80 (felony carnal  
2 knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1  
3 (pornography involving juveniles), R.S. 14:81.2 (molestation of a juvenile or a  
4 person with a physical or mental disability), R.S. 14:81.3 (computer-aided  
5 solicitation of a minor), R.S. 14:81.4 (prohibited sexual conduct between an educator  
6 and student), R.S. 14:82.1 (prostitution; persons under eighteen), R.S. 14:82.2(C)(4)  
7 and (5) (purchase of commercial sexual activity), R.S. 14:92(A)(7) (contributing to  
8 the delinquency of juveniles), R.S. 14:93.5 (sexual battery of persons with  
9 infirmities), R.S. 14:106(A)(5) (obscenity by solicitation of a person under the age  
10 of seventeen), R.S. 14:283 (video voyeurism), R.S. 14:41 (rape), R.S. 14:42  
11 (aggravated or first degree rape), R.S. 14:42.1 (forcible or second degree rape), R.S.  
12 14:43 (simple or third degree rape), R.S. 14:43.1 (sexual battery), R.S. 14:43.2  
13 (second degree sexual battery), R.S. 14:43.3 (oral sexual battery), R.S. 14:43.5  
14 (intentional exposure to HIV), a second or subsequent conviction of R.S. 14:283.1  
15 (voyeurism), ~~or a second or subsequent conviction of R.S. 14:89.3 (sexual abuse of~~  
16 ~~an animal),~~ or a second conviction of R.S. 14:81.7 (indecent visual depiction of a  
17 minor), committed on or after June 18, 1992, or committed prior to June 18, 1992,  
18 if the person, as a result of the offense, is under the custody of the Department of  
19 Public Safety and Corrections on or after June 18, 1992. A conviction for any  
20 offense provided in this definition includes a conviction for the offense under the  
21 laws of another state, or military, territorial, foreign, tribal, or federal law which is  
22 equivalent to an offense provided for in this Chapter, unless the tribal court or  
23 foreign conviction was not obtained with sufficient safeguards for fundamental  
24 fairness and due process for the accused as provided by the federal guidelines  
25 adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

26 \* \* \*

27 Section 3. Code of Criminal Procedure Article 611(F) is hereby enacted to read as  
28 follows:

1 Art. 611. Venue; trial where offense committed

2 \* \* \*

3 F. If the offender is charged with the crime of indecent visual depiction of  
4 a minor, the offense is deemed to have been committed in either of the following:

5 (1) The parish where the unlawful act occurred.

6 (2) The parish where any part of the visual depiction was created, produced,  
7 reproduced, found, stored, received, or transmitted in violation of R.S. 14:81.7.

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 103 Original

2025 Regular Session

Gadberry

**Abstract:** Creates the crime of indecent visual depiction of a minor, designates this crime as a sex offense, and specifies proper venue for prosecution of this offense.

Proposed law provides that no person shall transmit an indecent visual depiction of the intimate parts of a minor child with the malicious and willful intent to abuse, cause emotional or physical distress, coerce, embarrass, harass, intimidate, provide sexual stimulation or gratification, shame, or torment. Further provides that lack of knowledge of age shall not constitute a defense.

Proposed law provides for penalties as follows:

- (1) Upon a first conviction, imprisonment for not more than six months, a fine of not less than \$1,000, or both.
- (2) Upon a second conviction, imprisonment for not more than five years at hard labor, a fine of not less than \$5,000, or both.
- (3) Upon a third or subsequent conviction, imprisonment at hard labor for not more than 10 years, a fine of not less than \$10,000, or both.

Proposed law provides that a second conviction of proposed law shall be considered a sex offense as defined in present law (R.S. 15:541), and the offender shall be required to register as a sex offender as provided in present law (Ch. 3-B of Title 15 of the La. Revised Statutes of 1950).

Proposed law does not apply to an interactive computer service, electronic mail service provider, a provider of a telecommunications service or any information service as defined in federal law, or a system or access software provider that provides or enables computer access by multiple users to a computer server that was used by a person to commit any act prohibited by proposed law.

Proposed law does not apply to a person who transmits an indecent visual depiction of the intimate parts of a minor child to any of the following:

- (1) A caseworker or representative of the Dept. of Children and Family Services or any other state agency for the purpose of investigating potential child abuse or neglect.
- (2) A medical professional for the purpose of seeking medical advice.
- (3) A criminal justice agency in connection with a lawful criminal investigation.
- (4) An attorney or court personnel in connection with any criminal or civil legal proceeding that arises due to a violation of proposed law or any other provision of present law (Title 14 of the La. Revised Statutes of 1950) that involves an unlawful visual depiction of a minor child.
- (5) A parent, legal guardian, family member, or other person most familiar with the person under circumstances in which a reasonable person would know or understand that there is no malicious intent and that the visual depiction is to remain private. Such circumstances shall include but not be limited to any of the following:
  - (a) Visual depictions of prenatal care and services.
  - (b) Visual depictions of medical conditions for the purpose of obtaining medical treatment or advice.
  - (c) Visual depictions that do not appeal to prurient interest or are not patently offensive.

Proposed law provides that any person or entity that obtains an indecent visual depiction of the intimate parts of a minor child pursuant to proposed law shall take measures to restrict access to such depiction.

Proposed law defines the terms "criminal justice agency", "indecent visual depiction", "intimate parts", "medical professional", "minor child", and "transmit" or "transmission".

Present law (R.S. 15:541) provides for definitions relative to sex offenders.

Proposed law retains present law.

Present law (R.S. 15:541(24)(a)) defines the term "sex offense".

Proposed law amends present law to include a second conviction of the proposed law crime of indecent visual depiction of a minor within the term "sex offense".

Present law (C.Cr.P. Art. 611) provides that the venue for a trial is where the offense is committed.

Proposed law retains present law.

Proposed law further provides that if the offender is charged with the proposed law crime of indecent visual depiction of a minor, the offense is deemed to have been committed in either of the following:

- (1) The parish where the unlawful act occurred.
- (2) The parish where any part of the visual depiction was created, produced, reproduced, found, stored, received, or transmitted in violation of proposed law.

(Amends R.S. 15:541(24)(a); Adds R.S. 14:81.7 and C.Cr.P. Art. 611(F))