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## DIGEST

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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))