

2018 Regular Session

HOUSE BILL NO. 261

BY REPRESENTATIVE MARINO

CRIME: Provides relative to the use of telecommunications devices as a form of harassment

1 AN ACT

2 To amend and reenact R.S. 14:285(A)(1), (2), (4), and (5) and (B) and to enact R.S.  
3 14:285(E), relative to unlawful telephone and telecommunications device  
4 communications; to prohibit the use of any telecommunications device to send  
5 certain types of communications; to provide for definitions; and to provide for  
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:285(A)(1), (2), (4), and (5) and (B) are hereby amended and  
9 reenacted and R.S. 14:285(E) is hereby enacted to read as follows:

10 §285. ~~Telephone~~ Unlawful communications; telephones and telecommunications  
11 devices; communications; improper language; harassment; penalty

12 A. No person shall:

13 (1) Engage in or institute a telephone call, telephone conversation, or  
14 telephone conference, with another person, or use any telecommunications device  
15 to send any text message or other message to another person, anonymously or  
16 otherwise, and therein use obscene, profane, vulgar, lewd, or lascivious, ~~or indecent~~  
17 language, or make any suggestion or proposal of an obscene nature or threaten any  
18 illegal or immoral act with the intent to coerce, intimidate, or harass ~~another~~ any  
19 person.

1 (2) Make repeated telephone communications or send repeated text messages  
2 or other messages using any telecommunications device anonymously or otherwise  
3 in a manner reasonably expected to ~~annoy~~, abuse, torment, harass, embarrass, or  
4 offend another, whether or not conversation ensues.

5 \* \* \*

6 (4) Engage in a telephone call, conference, or recorded communication by  
7 using obscene language or by making a graphic description of a sexual act, or use  
8 any telecommunications device to send any text message or other message  
9 containing obscene language or any obscene content, anonymously or otherwise,  
10 ~~when by making a graphic description of a sexual act, and~~ the offender knows or  
11 reasonably should know that such obscene or graphic language is directed to, or will  
12 be heard by, a minor. Lack of knowledge of age shall not constitute a defense.

13 (5) Knowingly permit any telephone or any other telecommunications device  
14 under his control to be used for any purpose prohibited by this Section.

15 B. Any offense ~~committed by use of a telephone~~ as set forth in this Section  
16 shall be deemed to have been committed at either the place where the ~~telephone call~~  
17 ~~or calls~~ communication originated or at the place where the ~~telephone call or calls~~  
18 communication was ~~were~~ received.

19 \* \* \*

20 E. For the purposes of this Section, "telecommunications device" shall mean  
21 any type of instrument, device, or machine that is capable of transmitting or  
22 receiving telephonic, electronic, radio, text, or data communications, including but  
23 not limited to a cellular telephone, a text-messaging device, a personal digital  
24 assistant, a computer, or any other similar wireless device that is designed to engage  
25 in a call or communicate text or data.

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**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)]

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HB 261 Engrossed

2018 Regular Session

Marino

**Abstract:** Prohibits the use of a telecommunications device to send any text message or other message repeatedly or one that contains obscene language or content.

Present law prohibits any person from engaging in or instituting a telephone call, telephone conversation or conference, with another person, and using obscene, profane, vulgar, lewd, lascivious, or indecent language or making any suggestion or proposal of an obscene nature or threatening any illegal or immoral act with the intent to coerce, intimidate, or harass another person.

Proposed law removes indecent language but otherwise retains present law. Also prohibits any person from using any telecommunications device to send any text message or other message to another person that uses the type of language with certain intent identified in present law.

Present law prohibits any person from making repeated telephone communications in a manner reasonably expected to annoy, abuse, torment, harass, embarrass, or offend another, whether or not conversation ensues.

Proposed law amends present law to add a prohibition from sending repeated text messages or other messages using any telecommunications device and to remove from the offense repeated communications in a manner reasonably expected to annoy another person.

Present law prohibits any person from engaging in a telephone call, conference, or recorded communication by using obscene language when the offender knows or should know that such language is directed to, or will be heard by a minor and prohibits any person from authorizing the use of a telephone under his control to violate the provisions of present law.

Proposed law maintains present law and adds a prohibition from using any telecommunications device to send any text message or other message containing obscene language or content, anonymously or otherwise, and from authorizing the use of any telecommunications device under his control to violate the provisions of present law

Present law requires that any offense provided for in present law be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

Proposed law clarifies that any offense provided for in present law be deemed to have been committed at either the place where the communication originated or at the place where the communication was received.

Proposed law defines "telecommunications device" as any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data.

(Amends R.S. 14:285(A)(1), (2), (4), and (5) and (B); Adds R.S. 14:285(E))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Remove from the offense repeated communications in a manner reasonably expected to annoy another person.