

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 261

2018 Regular Session

Marino

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

Synopsis of Senate Amendments

1. Specifies that the proposed law prohibition on using any telecommunications device to send any text message or other message which contains certain prohibited language or obscene content, and the prohibition on using a telecommunications device to send repeated text messages or other messages, applies only to messages sent directly to the person.

Digest of Bill as Finally Passed by Senate

Present law prohibits any person from engaging in or instituting a telephone call, telephone conversation, or telephone conference with another person, and using obscene, profane, vulgar, lewd, lascivious, or indecent language during the call, conversation, or conference, 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.

In this regard, proposed law does all of the following:

- (1) Removes from present law the prohibition on using "indecent" language while engaging in or instituting a telephone call, telephone conversation, or telephone conference with another person.
- (2) Specifies that the requisite intent for commission of the offense is the intent to coerce, intimidate, or harass any person.
- (3) Adds that a person, with the intent to coerce, intimidate, or harass any person, is further prohibited from using any telecommunications device to send the prohibited language in any text message or other message directly to another person.

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.

In this regard, proposed law does all of the following:

- (1) Removes from present law the prohibition on making repeated telephone communications in a manner reasonably expected to annoy another person.
- (2) Adds that a person is further prohibited from sending directly to a person repeated text messages or other messages using any telecommunications device in a manner reasonably expected to abuse, torment, harass, embarrass, or offend another.

Present law prohibits any person from engaging in a telephone call, conference, or recorded communication by using obscene language, when by making a graphic description of a sexual act, and the offender knows or reasonably should know that such obscene or graphic language is directed to, or will be heard by, a minor.

In this regard, proposed law does all of the following:

- (1) Amends present law to prohibit any person from engaging in a telephone call,

conference, or recorded communication by using obscene language or by making a graphic description or a sexual act.

- (2) Adds that a person is further prohibited from using any telecommunications device to send directly to another person any text message or other message containing obscene language or any obscene content, anonymously or otherwise.

Present law prohibits any person from knowingly permitting any telephone under his control to be used for purposes prohibited by present law (R.S. 14:285).

Proposed law retains present law and extends its application to telecommunications devices under the control of the person.

For purposes of proposed law, "telecommunications device" is defined 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))