

2018 Regular Session

HOUSE BILL NO. 79

BY REPRESENTATIVES MACK, AMEDEE, BACALA, BAGLEY, BRASS, CHAD BROWN, TERRY BROWN, CARPENTER, COX, CREWS, EDMONDS, FOIL, GISCLAIR, GLOVER, JIMMY HARRIS, LANCE HARRIS, HAVARD, HAZEL, HENRY, HENSGENS, HODGES, HORTON, HUNTER, JACKSON, LYONS, MARCELLE, MIGUEZ, JAY MORRIS, NORTON, PYLANT, RICHARD, SCHEXNAYDER, STAGNI, STOKES, TALBOT, WRIGHT, AND ZERINGUE

1 AN ACT

2 To enact R.S. 14:283.3, relative to abuse of persons with infirmities; to create the crime of
3 abuse of persons with infirmities through electronic means; to provide for
4 exceptions; to provide for penalties; to provide for definitions; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:283.3 is hereby enacted to read as follows:

8 §283.3. Abuse of persons with infirmities through electronic means

9 A. A person commits the crime of abuse of persons with infirmities through
10 electronic means when all of the following occur:

11 (1) The person transfers an image that was obtained by any camera,
12 videotape, photo-optical, photo-electric, unmanned aircraft system, or any other
13 image recording device and that was obtained for the purpose of observing, viewing,
14 photographing, filming, or videotaping any person with an infirmity.

15 (2) The person transfers the image by live or recorded telephone message,
16 electronic mail, the internet, or a commercial online service.

17 (3) The person transfers the image with the malicious and willful intent to
18 embarrass, shame, harass, coerce, abuse, torment, or intimidate, regardless of
19 whether the victim has knowledge of the transfer.

1 B. For purposes of this Section:

2 (1) "Person with an infirmity" means a person who suffers from a mental or
3 physical disability, including those associated with advanced age, which renders the
4 person incapable of adequately providing for his personal care. A person with an
5 infirmity may include but is not limited to a person who is a resident of a nursing
6 home, facility for persons with intellectual disabilities, mental health facility,
7 hospital, or other residential facility or recipients of home and community-based
8 care.

9 (2) "Unmanned aircraft system" means an unmanned, powered aircraft that
10 does not carry a human operator, can be autonomous or remotely piloted or operated,
11 and can be expendable or recoverable.

12 C.(1) Whoever commits the crime of abuse of persons with infirmities
13 through electronic means shall, upon a first conviction thereof, be fined not more
14 than one thousand dollars or imprisoned for not more than six months, or both.

15 (2) On a second or subsequent conviction, the offender shall be fined not
16 more than two thousand dollars and imprisoned at hard labor for not more than three
17 years without benefit of parole, probation, or suspension of sentence.

18 D. The provisions of this Section shall not apply to the transference of such
19 images by a telephone company, television broadcast licensee of the Federal
20 Communications Commission, cable television company, or any of its affiliates, an
21 internet provider, or commercial online service provider, or to the carrying,
22 broadcasting, or performing of related activities in providing telephone, over-the-air
23 television, cable television, internet, or commercial online services.

24 E. The provisions of this Section shall not apply to any healthcare provider
25 through its use of any of its cameras, videotape, photo-optical, photo-electric,
26 unmanned aircraft system, or any other image recording device within the facility.

1 F. Any evidence resulting from the commission of abuse of persons with
2 infirmities through electronic means shall be contraband.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____