

Regular Session, 2010
HOUSE BILL NO. 1357

ACT No. 993

BY REPRESENTATIVE BALDONE AND SENATORS DORSEY AND MOUNT

1 AN ACT

2 To amend and reenact Children's Code Article 804(3) and to enact R.S. 14:81.1.1, relative
3 to sexual offenses affecting minors; to provide relative to delinquent acts; to create
4 the crime of sexting; to provide for elements of the crime; to provide for criminal
5 penalties; to provide for definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Children's Code Article 804(3) is hereby amended and reenacted to read
8 as follows:

9 Art. 804. Definitions

10 As used in this Title:

11 * * *

12 (3) "Delinquent act" means an act committed by a child of ten years of age
13 or older which if committed by an adult is designated an offense under the statutes
14 or ordinances of this state, or of another state if the act occurred in another state, or
15 under federal law, except traffic violations. It includes an act constituting an offense
16 under R.S. 14:81.1.1(A)(2) and a direct contempt of court committed by a child.

17 * * *

18 Section 2. R.S. 14:81.1.1 is hereby enacted to read as follows:

19 §81.1.1. "Sexting"; prohibited acts; penalties

20 A.(1) No person under the age of seventeen years shall knowingly and
21 voluntarily use a computer or telecommunication device to transmit an indecent
22 visual depiction of himself to another person.

1 (2) No person under the age of seventeen years shall knowingly possess or
2 transmit an indecent visual depiction that was transmitted by another under the age
3 of seventeen years in violation of the provisions of Paragraph (1) of this Subsection.

4 B. For purposes of this Section:

5 (1) "Indecent visual depiction" means any photograph, videotape, film, or
6 other reproduction of a person under the age of seventeen years engaging in sexually
7 explicit conduct, and includes data stored on any computer, telecommunication
8 device, or other electronic storage media which is capable of conversion into a visual
9 image.

10 (2) "Sexually explicit conduct" means masturbation or lewd exhibition of the
11 genitals, pubic hair, anus, vulva, or female breast nipples of a person under the age
12 of seventeen years.

13 (3) "Telecommunication device" means an analog or digital electronic device
14 which processes data, telephonic, video, or sound transmission as part of any system
15 involved in the sending or receiving of voice, sound, data, or video transmissions.

16 (4) "Transmit" means to give, distribute, transfer, transmute, circulate, or
17 disseminate by use of a computer or telecommunication device.

18 C.(1) For a violation of the provisions of Paragraph (A)(1) of this Section,
19 the offender's disposition shall be governed exclusively by the provisions of Title VII
20 of the Louisiana Children's Code.

21 (2)(a) For a first offense in violation of Paragraph (A)(2) of this Section, the
22 offender shall be fined not less than one hundred dollars nor more than two hundred
23 fifty dollars, imprisoned for not more than ten days, or both. Imposition or execution
24 of the sentence shall not be suspended unless the offender is placed on probation
25 with a minimum condition that he perform two eight-hour days of court-approved
26 community service.

27 (b) For a second offense in violation of Paragraph (A)(2) of this Section, the
28 offender shall be fined not less than two hundred fifty dollars nor more than five
29 hundred dollars, imprisoned for not less than ten days nor more than thirty days, or
30 both. Imposition or execution of the sentence shall not be suspended unless the

1 offender is placed on probation with a minimum condition that he perform five eight-
2 hour days of court-approved community service.

3 (c) For a third or any subsequent offense in violation of Paragraph (A)(2) of
4 this Section, the offender shall be fined not less than five hundred dollars nor more
5 than seven hundred fifty dollars, imprisoned for not less than thirty days nor more
6 than six months, or both. Imposition or execution of the sentence shall not be
7 suspended unless the offender is placed on probation with a minimum condition that
8 he perform ten eight-hour days of court-approved community service.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____