

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 79

2018 Regular Session

Mack

CRIME: Creates the crime of abuse of persons with infirmities through electronic means and provides for criminal penalties and exceptions

Synopsis of Senate Amendments

1. Removes the minimum term of imprisonment of one year from the penalties imposed for a second or subsequent conviction of the proposed law crime.

Digest of Bill as Finally Passed by Senate

Proposed law creates the crime of abuse of persons with infirmities through electronic means and provides that the offense is committed when all of the following occur:

- (1) The person transfers an image that was obtained by any camera, videotape, photo-optical, photo-electric, unmanned aircraft system, or any other image recording device and that was obtained for the purpose of observing, viewing, photographing, filming, or videotaping any person with an infirmity.
- (2) The person transfers the image by live or recorded telephone message, electronic mail, the internet, or a commercial online service.
- (3) The person transfers the image with the malicious and willful intent to embarrass, shame, harass, coerce, abuse, torment, or intimidate, regardless of whether the victim has knowledge of the transfer.

Proposed law defines "person with an infirmity" as a person who suffers from a mental or physical disability, including those associated with advanced age, which renders the person incapable of adequately providing for his personal care. Further provides that a person with an infirmity may include but is not limited to a person who is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility or recipients of home and community-based care.

Proposed law provides for the following penalties:

- (1) First offense conviction - a fine of not more than \$1,000, imprisonment for up to six months, or both.
- (2) Second or subsequent offense conviction - a fine of not more than \$2,000, and imprisonment at hard labor for up to three years, without benefit of parole, probation, or suspension of sentence.

Proposed law provides an exception to this offense for a telephone company, television company, cable television company, or any of its affiliates, an internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, over-the-air television, internet, or commercial online services. Further provides an exception for any healthcare provider through its use of any of its cameras, videotape, photo-optical, photo-electric, unmanned aircraft system, or any other image recording device within the facility.

Proposed law provides that any evidence resulting from the commission of abuse of persons with infirmities through electronic means shall be contraband.

(Adds R.S. 14:283.3)