

THE FLORIDA SENATE
2015 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/SB 538 — Disclosure of Sexually Explicit Images

by Rules Committee; Criminal Justice Committee; and Senators Simmons and Soto

The bill creates s. 784.049, F.S., to prohibit a person from willfully and maliciously sexually cyberharassing another person. “Sexually cyberharass” is defined as publishing a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person to an Internet website without such person’s consent, for no legitimate purpose, and with the intent to cause substantial emotional distress to such person.

The bill provides that a person who commits sexual cyberharassment commits a first degree misdemeanor. However, a second or subsequent violation by a person with a prior conviction for sexual cyberharassment is a third degree felony.

The bill amends s. 901.15, F.S., to permit a law enforcement officer to arrest a person without a warrant when there is probable cause to believe that the person has committed sexual cyberharassment. Additionally, the bill permits a search warrant to be issued for a private dwelling if evidence relevant to proving sexual cyberharassment is contained therein.

The bill authorizes an aggrieved person to initiate a civil action against a person who commits sexual cyberharassment to obtain all appropriate relief in order to prevent or remedy a violation. This relief includes:

- Injunctive relief; monetary damages to include five thousand dollars or actual damages incurred, whichever is greater; and reasonable attorney fees and costs.

The bill specifies that sexual cyberharassment is considered to be committed in Florida if any conduct that is an element of the offense, or any harm to the depicted person resulting from the offense, occurs within the state.

If approved by the Governor, these provisions take effect October 1, 2015.

Vote: Senate 38-2; House 114-2