

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 75 — Offense of Sexting

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Abruzzo and others (CS/CS/SB 888 by Communications, Energy, and Public Utilities Committee; Judiciary Committee; and Senator Dean)

The bill provides a lesser-penalty alternative to punish “sexting” committed by a minor. Under the bill, a minor commits the offense of “sexting” if the minor knowingly:

- Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity and is harmful to minors; or
- Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity and is harmful to minors.

A first sexting violation is a noncriminal violation punishable as provided in the bill. A sexting violation committed after a non criminal violation is a first degree misdemeanor. A sexting violation committed after a first degree misdemeanor violation is a third degree felony. The bill also specifies conditions in which the sexting offense does not apply.

The new section does not prohibit the prosecution of a minor for a violation of any law of this state if the photograph or video that depicts nudity also includes the depiction of sexual conduct or sexual excitement, and does not prohibit the prosecution of a minor for stalking.

If approved by the Governor, these provisions take effect October 1, 2011.

Vote: Senate 39-0; House 117-0