

By Senator Geller

29-1169-00

1 A bill to be entitled
 2 An act relating to pornography; amending s.
 3 847.001, F.S.; defining the term "child
 4 pornography" for purposes of ch. 847, F.S.;
 5 creating s. 847.0139, F.S.; providing immunity
 6 from civil or criminal liability for reporting
 7 to a law enforcement officer the possession of
 8 child pornography or materials harmful to
 9 minors by another person or entity, unless the
 10 person making the report knows it to be false;
 11 providing an effective date.

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 13 Be It Enacted by the Legislature of the State of Florida:

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 15 Section 1. Section 847.001, Florida Statutes, is
 16 amended to read:

17 847.001 Definitions.--When used in this chapter:
 18 (1) "Child pornography" means the visual depiction of
 19 sexual conduct of or with a minor.

20 (2)~~(1)~~ "Computer" means an electronic, magnetic,
 21 optical, electrochemical, or other high-speed data processing
 22 device performing logical, arithmetic, or storage functions
 23 and includes any data storage facility or communications
 24 facility directly related to or operating in conjunction with
 25 such device. The term also includes: any on-line service,
 26 Internet service, or local bulletin board; any electronic
 27 storage device, including a floppy disk or other magnetic
 28 storage device; or any compact disc that has read-only memory
 29 and the capacity to store audio, video, or written materials.

30 (3)~~(2)~~ "Deviate sexual intercourse" means sexual
 31 conduct between persons not married to each other consisting

1 of contact between the penis and the anus, the mouth and the
2 penis, or the mouth and the vulva.

3 (4)~~(3)~~ "Harmful to minors" means that quality of any
4 description, exhibition, presentation, or representation, in
5 whatever form, of nudity, sexual conduct, or sexual excitement
6 when it:

7 (a) Predominantly appeals to the prurient, shameful,
8 or morbid interest of minors;

9 (b) Is patently offensive to prevailing standards in
10 the adult community as a whole with respect to what is
11 suitable material for minors; and

12 (c) Taken as a whole, is without serious literary,
13 artistic, political, or scientific value for minors.

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15 A mother's breastfeeding of her baby is not under any
16 circumstance "harmful to minors."

17 (5)~~(4)~~ "Minor" means any person under the age of 18
18 years.

19 (6)~~(5)~~ "Nudity" means the showing of the human male or
20 female genitals, pubic area, or buttocks with less than a
21 fully opaque covering; or the showing of the female breast
22 with less than a fully opaque covering of any portion thereof
23 below the top of the nipple; or the depiction of covered male
24 genitals in a discernibly turgid state. A mother's
25 breastfeeding of her baby does not under any circumstance
26 constitute "nudity," irrespective of whether or not the nipple
27 is covered during or incidental to feeding.

28 (7)~~(6)~~ "Person" includes individuals, firms,
29 associations, corporations, and all other groups and
30 combinations.

31 (8)~~(7)~~ "Obscene" means the status of material which:

1 (a) The average person, applying contemporary
2 community standards, would find, taken as a whole, appeals to
3 the prurient interest;

4 (b) Depicts or describes, in a patently offensive way,
5 sexual conduct as specifically defined herein; and

6 (c) Taken as a whole, lacks serious literary,
7 artistic, political, or scientific value.

8
9 A mother's breastfeeding of her baby is not under any
10 circumstance "obscene."

11 (9)~~(8)~~ "Sadomasochistic abuse" means flagellation or
12 torture by or upon a person or animal, or the condition of
13 being fettered, bound, or otherwise physically restrained, for
14 the purpose of deriving sexual satisfaction, or satisfaction
15 brought about as a result of sadistic violence, from
16 inflicting harm on another or receiving such harm oneself.

17 (10)~~(9)~~ "Sexual battery" means oral, anal, or vaginal
18 penetration by, or union with, the sexual organ of another or
19 the anal or vaginal penetration of another by any other
20 object; however, "sexual battery" does not include an act done
21 for a bona fide medical purpose.

22 (11)~~(10)~~ "Sexual bestiality" means any sexual act
23 between a person and an animal involving the sex organ of the
24 one and the mouth, anus, or vagina of the other.

25 (12)~~(11)~~ "Sexual conduct" means actual or simulated
26 sexual intercourse, deviate sexual intercourse, sexual
27 bestiality, masturbation, or sadomasochistic abuse; actual
28 lewd exhibition of the genitals; actual physical contact with
29 a person's clothed or unclothed genitals, pubic area,
30 buttocks, or, if such person is a female, breast; or any act
31 or conduct which constitutes sexual battery or simulates that

1 sexual battery is being or will be committed. A mother's
2 breastfeeding of her baby does not under any circumstance
3 constitute "sexual conduct."

4 (13)~~(12)~~ "Sexual excitement" means the condition of
5 the human male or female genitals when in a state of sexual
6 stimulation or arousal.

7 (14)~~(13)~~ "Simulated" means the explicit depiction of
8 conduct described in subsection (12)~~(11)~~ which creates the
9 appearance of such conduct and which exhibits any uncovered
10 portion of the breasts, genitals, or buttocks.

11 Section 2. Section 847.0139, Florida Statutes, is
12 created to read:

13 847.0139 Immunity from liability for reporting child
14 pornography.--Any person who reports to a law enforcement
15 officer that another person or entity is in possession of
16 child pornography or materials harmful to minors may not be
17 held civilly or criminally liable for reporting such
18 information, unless the person making the report knows it to
19 be false.

20 Section 3. This act shall take effect July 1, 2000.

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23 SENATE SUMMARY

24 Defines the term "child pornography." Provides that a
25 person is immune from civil or criminal liability for
26 reporting to a law enforcement officer that another
27 person or entity possesses child pornography or materials
28 harmful to minors, unless the person knows that such
29 report is false.
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