

711-127AXB-22

Bill No. CS/HB 203

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

Representative(s) Ryan offered the following:

Amendment (with title amendment)

On page 8, line 3, through page 10, line 10,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 3. Subsection (2) of section 847.0135, Florida Statutes, is amended to read:

847.0135 Computer pornography; penalties.--

(2) COMPUTER PORNOGRAPHY.--A person who:

(a) Knowingly compiles, enters into, or transmits by use means of computer;

(b) Makes, prints, publishes, or reproduces by other computerized means;

(c) Knowingly causes or allows to be entered into or transmitted by use means of computer; or

(d) Buys, sells, receives, exchanges, or disseminates, any notice, statement, or advertisement of, ~~or~~ any minor's name, telephone number, place of residence, physical

1 characteristics, or other descriptive or identifying
 2 information, for purposes of facilitating, encouraging,
 3 offering, or soliciting sexual conduct of or with any minor,
 4 or the visual depiction of such conduct, commits a felony of
 5 the third degree, punishable as provided in s. 775.082, s.
 6 775.083, or s. 775.984. The fact that an undercover operative
 7 or law enforcement officer was involved in the detection and
 8 investigation of an offense under this section shall not
 9 constitute a defense to a prosecution under this section. ~~Any~~
 10 ~~person who violates the provisions of this subsection commits~~
 11 ~~a felony of the third degree, punishable as provided for in s.~~
 12 ~~775.082, s. 775.083, or s. 775.084.~~

13 Section 4. Section 847.0137, Florida Statutes, is
 14 created to read:

15 847.0137 Transmission of pornography by electronic
 16 device or equipment prohibited; penalties.--

17 (1) For purposes of this section:

18 (a) "Minor" means any person less than 18 years of
 19 age.

20 (b) "Transmit" means the act of sending and causing to
 21 be delivered any image, information, or data from one or more
 22 persons or places to one or more other persons or places over
 23 or through any medium, including the Internet, by use of any
 24 electronic equipment or device.

25 (2) Notwithstanding ss. 847.012 and 847.0133, any
 26 person in this state who knew or reasonably should have known
 27 that he or she was transmitting child pornography, as defined
 28 in s. 847.001, to another person in this state or in another
 29 jurisdiction commits a felony of the third degree, punishable
 30 as provided in s. 775.082, s. 775.083, or s. 775.084.

31 (3) Notwithstanding ss. 847.012 and 847.0133, any

1 person in any jurisdiction other than this state who knew or
2 reasonably should have known that he or she was transmitting
3 child pornography, as defined in s. 847.001, to any person in
4 this state commits a felony of the third degree, punishable as
5 provided in s. 775.082, s. 775.083, or s. 775.084.

6 (4) This section shall not be construed to prohibit
7 prosecution of a person in this state or another jurisdiction
8 for a violation of any law of this state, including a law
9 providing for greater penalties than prescribed in this
10 section, for the transmission of child pornography, as defined
11 in s. 847.001, to any person in this state.

12 (5) A person is subject to prosecution in this state
13 pursuant to chapter 910 for any act or conduct proscribed by
14 this section, including a person in a jurisdiction other than
15 this state, if the act or conduct violates subsection (3).

16
17 The provisions of this section do not apply to
18 subscription-based transmissions such as list servers.

19 Section 5. Section 847.0138, Florida Statutes, is
20 created to read:

21 847.0138 Transmission of material harmful to minors to
22 a minor by electronic device or equipment prohibited;
23 penalties.--

24 (1) For purposes of this section:

25 (a) "Known by the defendant to be a minor" means that
26 the defendant had actual knowledge or had reason to believe
27 that the recipient of the communication was a minor.

28 (b) "Transmit" means to send to a specific individual
29 known by the defendant to be a minor via electronic mail.

30 (2) Notwithstanding ss. 847.012 and 847.0133, any
31 person in this state who knew or reasonably should have known

1 that he or she was transmitting an image, information, or data
2 that is harmful to minors, as defined in s. 847.001, to a
3 specific individual known by the defendant to be a minor in
4 this state commits a felony of the third degree, punishable as
5 provided in s. 775.082, s. 775.083, or s. 775.084.

6 (3) Notwithstanding ss. 847.012 and 847.0133, any
7 person in any jurisdiction other than this state who knew or
8 reasonably should have known that he or she was transmitting
9 an image, information, or data that is harmful to minors, as
10 defined in s. 847.001, to a specific individual known by the
11 defendant to be a minor in this state commits a felony of the
12 third degree, punishable as provided in s. 775.082, s.
13 775.083, or s. 775.084.

14
15 The provisions of this section do not apply to
16 subscription-based transmissions such as list servers.

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18
19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 On page 1, line 12,

22
23 after "penalties;" insert:

24 creating s. 847.0138, F.S.; prohibiting
25 transmission of material harmful to minors by
26 electronic device or equipment; providing
27 definitions; providing penalties;