



588412

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: FAV	.	
4/15/2008	.	
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1 The Committee on Criminal and Civil Justice Appropriations (Dean)
2 recommended the following **substitute for amendment (682200)**:

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4 **Senate Amendment (with title amendment)**

5 Delete line(s) 168-296

6 and insert:

7 Section 4. Section 847.002, Florida Statutes, is created to
8 read:

9 847.002 Child pornography prosecutions.--

10 (1) Any law enforcement officer who, pursuant to a criminal
11 investigation, recovers images or movies of child pornography
12 shall:

13 (a) Provide such images or movies to the law enforcement
14 agency representative assigned to the Child Victim Identification
15 Program at the National Center for Missing and Exploited
16 Children, as required by the center's guidelines.



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17 (b) Request the law enforcement agency contact information
18 from the Child Victim Identification Program for any images or
19 movies recovered which contain an identified victim of child
20 pornography as defined in s. 960.03.

21 (c) Provide case information to the Child Victim
22 Identification Program, as required by the National Center for
23 Missing and Exploited Children guidelines, in any case where the
24 law enforcement officer identifies a previously unidentified
25 victim of child pornography, as defined in s. 960.03.

26 (2) Any law enforcement officer submitting a case for
27 prosecution which involves the production, promotion, or
28 possession of child pornography shall submit to the designated
29 prosecutor the law enforcement agency contact information
30 provided by the Child Victim Identification Program at the
31 National Center for Missing and Exploited Children, for any
32 images or movies involved in the case which contain the depiction
33 of an identified victim of child pornography as defined in s.
34 960.03.

35 (3) In every filed case involving an identified victim of
36 child pornography, as defined in s. 960.03, the prosecuting
37 agency shall enter the following information into the Victims in
38 Child Pornography Tracking Repeat Exploitation database
39 maintained by the Office of the Attorney General:

40 (a) The case number and agency file number.

41 (b) The named defendant.

42 (c) The circuit court division and county.

43 (d) Current court dates and the status of the case.

44 (e) Contact information for the prosecutor assigned.



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45 (f) Verification that the prosecutor is or is not in
46 possession of a victim impact statement and will use the
47 statement in sentencing.

48 Section 5. Section 847.01357, Florida Statutes, is created
49 to read:

50 847.01357 Exploited children's civil remedy.--

51 (1) Any person who, while under the age of 18, was a victim
52 of a sexual abuse crime listed in chapter 794, chapter 800,
53 chapter 827, or chapter 847, where any portion of such abuse was
54 used in the production of child pornography, and who suffers
55 personal or psychological injury as a result of the production,
56 promotion, or possession of such images or movies, may bring an
57 action in an appropriate state court against the producer,
58 promoter, or possessor of such images or movies, regardless of
59 whether the victim is now an adult. In any action brought under
60 this section, a prevailing plaintiff shall recover the actual
61 damages such person sustained and the cost of the suit, including
62 reasonable attorney's fees. Any victim who is awarded damages
63 under this section shall be deemed to have sustained damages of
64 at least \$150,000.

65 (2) Notwithstanding any other provisions of law, any action
66 commenced under this section must be filed within 3 years after
67 the later of:

68 (a) The conclusion of a related criminal case;

69 (b) The notification to the victim by a member of a law
70 enforcement agency of the creation, possession, or promotion of
71 pornographic images; or

72 (c) In the case of a victim younger than 18, within 3 years
73 after the person reaches the age of 18.



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74 (3) Any victim who has a bona fide claim under this section
75 shall, upon request, be provided a pseudonym, pursuant to s.
76 92.56(3), which shall be issued and maintained by the Department
77 of Legal Affairs for use in all legal pleadings. This identifier
78 shall be fully recognized in all courts in this state as a valid
79 legal identity.

80 (4) It is not a defense to a civil cause of action under
81 this section that the respondent did not know the victim or
82 commit the abuse depicted in any image of child pornography.

83 (5) To prevent the further exploitation of victims for
84 monetary gain by any other person, at the victim's request and
85 pursuant to agency approval, the Office of the Attorney General
86 may pursue cases on behalf of any Florida victim under this
87 section. All damages obtained shall go to the victim, and the
88 Office of the Attorney General may seek reasonable attorney's
89 fees and costs as authorized under this section.

90 Section 6. Paragraph (d) is added to subsection (3) of
91 section 960.03, Florida Statutes, present subsections (10)
92 through (13) of that section are renumbered as subsections (11)
93 through (14), respectively, a new subsection (10) is added to
94 that section, and present subsection (13) of that section is
95 amended, to read:

96 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
97 960.01-960.28, unless the context otherwise requires, the term:

98 (3) "Crime" means:

99 (d) Any violation of s. 827.071, s. 847.0135, s. 847.0137,
100 or s. 847.0138, related to online sexual exploitation and child
101 pornography.

102 (10) "Identified victim of child pornography" means any
103 person who, while under the age of 18, is depicted in any image



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104 or movie of child pornography and who is identified through a
105 report generated by a law enforcement agency and provided to the
106 National Center for Missing and Exploited Children's Child Victim
107 Identification Program.

108 (14)-(13) "Victim" means:

109 (a) A person who suffers personal physical injury or death
110 as a direct result of a crime;

111 (b) A person younger less than 18 16 years of age who was
112 present at the scene of a crime, saw or heard the crime, and
113 suffered a psychiatric or psychological injury because of the
114 crime, but who was not physically injured; or

115 (c) A person against whom a forcible felony was committed
116 and who suffers a psychiatric or psychological injury as a direct
117 result of that crime but who does not otherwise sustain a
118 personal physical injury or death.

119 Section 7. Section 960.197, Florida Statutes, is created to
120 read:

121 960.197 Assistance to victims of online sexual exploitation
122 and child pornography.--

123 (1) Notwithstanding the criteria set forth in s. 960.13 for
124 crime victim compensation awards, the department may award
125 compensation for counseling and other mental health services to
126 treat psychological injury or trauma to:

127 (a) A child younger than 18 years of age who suffers
128 psychiatric or psychological injury as a direct result of online
129 sexual exploitation under any provision of s. 827.071, s.
130 847.0135, s. 847.0137, or s. 847.0138, and who does not otherwise
131 sustain a personal injury or death; or

132 (b) Any person who, while younger than age 18, was depicted
133 in any image or movie, regardless of length, of child pornography



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134 as defined in s. 847.001, who has been identified by a law
135 enforcement agency or the National Center for Missing and
136 Exploited Children as an identified victim of child pornography,
137 who suffers psychiatric or psychological injury as a direct
138 result of the crime, and who does not otherwise sustain a
139 personal injury or death.

140 (2) Compensation under this section is not contingent upon
141 pursuit of a criminal investigation or prosecution.

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

And the title is amended as follows:

On line(s) 35, delete the word "known"

and insert:

identified