

1                   A bill to be entitled  
 2           An act relating to offense of sexting; creating s.  
 3           847.0146, F.S.; providing that a minor commits the offense  
 4           of sexting if he or she knowingly uses a computer, or any  
 5           other device capable of electronic data transmission or  
 6           distribution, to transmit or distribute to another person  
 7           any photograph or video of himself or herself which  
 8           depicts nudity and is harmful to minors, or knowingly  
 9           possesses such a photograph or video that was transmitted  
 10          or distributed to the minor from another minor; providing  
 11          noncriminal and criminal penalties; providing that the  
 12          transmission or distribution of multiple photographs or  
 13          videos is a single offense if such photographs and videos  
 14          were transmitted or distributed in the same 24-hour  
 15          period; providing that the possession of multiple  
 16          photographs or videos that were transmitted or distributed  
 17          by a minor is a single offense if such photographs and  
 18          videos were transmitted or distributed by the minor in the  
 19          same 24-hour period; providing that the act does not  
 20          prohibit prosecution of a minor for conduct relating to  
 21          material that includes the depiction of sexual conduct or  
 22          sexual excitement or for stalking; providing an effective  
 23          date.

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

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 27           Section 1.   Section 847.0146, Florida Statutes, is created  
 28   to read:

29 847.0146 Sexting; prohibited acts; penalties.-

30 (1) A minor commits the offense of sexting if he or she  
 31 knowingly:

32 (a) Uses a computer, or any other device capable of  
 33 electronic data transmission or distribution, to transmit or  
 34 distribute to another person any photograph or video of himself  
 35 or herself which depicts nudity and is harmful to minors; or

36 (b) Possesses a photograph or video that was transmitted  
 37 or distributed by another minor as described in paragraph (a).

38 (2) A minor who violates subsection (1):

39 (a) Commits a noncriminal violation for a first offense,  
 40 punishable by 8 hours of community service and a \$25 fine. The  
 41 court may order the minor to participate in suitable training or  
 42 instruction in lieu of community service.

43 (b) Commits a misdemeanor of the second degree for a  
 44 second offense, punishable as provided in s. 775.082 or s.  
 45 775.083.

46 (c) Commits a misdemeanor of the first degree for a third  
 47 offense, punishable as provided in s. 775.082 or s. 775.083.

48 (d) Commits a felony of the third degree for a fourth or  
 49 subsequent offense, punishable as provided in s. 775.082, s.  
 50 775.083, or s. 775.084.

51 (3) For purposes of this section:

52 (a) The transmission or distribution of multiple  
 53 photographs or videos described in paragraph (1)(a) is a single  
 54 offense if such photographs or videos were transmitted or  
 55 distributed in the same 24-hour period.

56 (b) The possession of multiple photographs or videos that

CS/HB 1335

2010

57 were transmitted or distributed by a minor as described in  
58 paragraph (1)(a) is a single offense if such photographs or  
59 videos were transmitted or distributed by the minor in the same  
60 24-hour period.

61 (4) This section does not prohibit the prosecution of a  
62 minor for conduct relating to material that includes the  
63 depiction of sexual conduct or sexual excitement and does not  
64 prohibit the prosecution of a minor for stalking under s.  
65 784.048.

66 Section 2. This act shall take effect October 1, 2010.