

20102560e1

1                   A bill to be entitled  
2           An act relating to the offense of sexting; providing  
3           that a minor commits the offense of sexting if he or  
4           she knowingly uses a computer, or any other device  
5           capable of electronic data transmission or  
6           distribution, to transmit or distribute to another  
7           minor any photograph or video of himself or herself  
8           which depicts nudity and is harmful to minors;  
9           providing noncriminal and criminal penalties;  
10          providing that the act does not prohibit prosecution  
11          of a minor for conduct relating to material that  
12          includes the depiction of sexual conduct or sexual  
13          excitement or for stalking; defining the term "found  
14          to have committed a misdemeanor"; providing an  
15          effective date.

16  
17   Be It Enacted by the Legislature of the State of Florida:

18  
19          Section 1. Sexting; prohibited acts; penalties.-

20          (1) A minor commits the offense of sexting if he or she  
21 knowingly uses a computer, or any other device capable of  
22 electronic data transmission or distribution, to transmit or  
23 distribute to another minor any photograph or video of himself  
24 or herself which depicts nudity as defined in s. 847.001(9),  
25 Florida Statutes, and is harmful to minors as defined in s.  
26 847.001(6), Florida Statutes.

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

28          (a) Commits a noncriminal violation for a first violation  
29 of sexting, punishable by 8 hours of community service or, if

20102560e1

30 ordered by the court in lieu of community service, a \$60 fine.  
31 The court may also order the minor to participate in suitable  
32 training or instruction in lieu of, or in addition to, community  
33 service or a fine.

34 (b) Commits a misdemeanor of the second degree for a  
35 violation that occurs after being found to have committed a  
36 noncriminal violation for sexting, punishable as provided in s.  
37 775.082 or s. 775.083, Florida Statutes.

38 (c) Commits a misdemeanor of the first degree for a  
39 violation that occurs after being found to have committed a  
40 misdemeanor of the second degree for sexting, punishable as  
41 provided in s. 775.082 or s. 775.083, Florida Statutes.

42 (d) Commits a felony of the third degree for a violation  
43 that occurs after being found to have committed a misdemeanor of  
44 the first degree for sexting, punishable as provided in s.  
45 775.082, s. 775.083, or s. 775.084, Florida Statutes.

46 (3) This section does not prohibit the prosecution of a  
47 minor for a violation of any law of this state if the photograph  
48 or video that depicts nudity also includes the depiction of  
49 sexual conduct or sexual excitement, and does not prohibit the  
50 prosecution of a minor for stalking under s. 784.048, Florida  
51 Statutes.

52 (4) For purposes of this section, "conviction" means a  
53 determination of guilt that is the result of a plea or trial, or  
54 a finding of delinquency that is the result of a plea or  
55 adjudicatory hearing, regardless of whether adjudication is  
56 withheld.

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