HB 75

1

A bill to be entitled

2 An act relating to sexting; creating s. 847.0146, F.S.; 3 providing that a minor commits the offense of sexting if 4 he or she knowingly uses a computer, or any other device 5 capable of electronic data transmission or distribution, 6 to transmit or distribute to another person any photograph 7 or video of himself or herself which depicts nudity and is 8 harmful to minors, or knowingly possesses such a 9 photograph or video that was transmitted or distributed to 10 the minor from another minor; providing noncriminal and 11 criminal penalties; providing that the transmission or distribution of multiple photographs or videos is a single 12 offense if such photographs and videos were transmitted or 13 14 distributed in the same 24-hour period; providing that the 15 possession of multiple photographs or videos that were 16 transmitted or distributed by a minor is a single offense if such photographs and videos were transmitted or 17 distributed by the minor in the same 24-hour period; 18 19 providing that the act does not prohibit prosecution of a 20 minor for conduct relating to material that includes the 21 depiction of sexual conduct or sexual excitement or for 22 stalking; providing an effective date. 23 24 Be It Enacted by the Legislature of the State of Florida: 25 26 Section 1. Section 847.0146, Florida Statutes, is created 27 to read: 28 847.0146 Sexting; prohibited acts; penalties.-

Page 1 of 3

CODING: Words stricken are deletions; words underlined are additions.

2011

HB 75

29 (1) A minor commits the offense of sexting if he or she 30 knowingly: (a) Uses a computer, or any other device capable of 31 32 electronic data transmission or distribution, to transmit or 33 distribute to another person any photograph or video of himself 34 or herself which depicts nudity and is harmful to minors; or 35 (b) Possesses a photograph or video that was transmitted 36 or distributed by another minor as described in paragraph (a). 37 (2) A minor who violates subsection (1): 38 Commits a noncriminal violation for a first offense, (a) 39 punishable by 8 hours of community service and a \$25 fine. The 40 court may order the minor to participate in suitable training or 41 instruction in lieu of community service. 42 Commits a misdemeanor of the second degree for a (b) second offense, punishable as provided in s. 775.082 or s. 43 44 775.083. 45 (c) Commits a misdemeanor of the first degree for a third 46 offense, punishable as provided in s. 775.082 or s. 775.083. 47 (d) Commits a felony of the third degree for a fourth or subsequent offense, punishable as provided in s. 775.082, s. 48 49 775.083, or s. 775.084. 50 (3) For purposes of this section: 51 The transmission or distribution of multiple (a) 52 photographs or videos described in paragraph (1)(a) is a single 53 offense if such photographs or videos were transmitted or 54 distributed in the same 24-hour period. 55 (b) The possession of multiple photographs or videos that 56 were transmitted or distributed by a minor as described in Page 2 of 3

CODING: Words stricken are deletions; words underlined are additions.

2011

FLORIDA	HOUSE	OF REP	RESENTA	TIVES
---------	-------	--------	---------	-------

## HB 75

57	paragraph (1)(a) is a single offense if such photographs or				
58	videos were transmitted or distributed by the minor in the same				
59	24-hour period.				
60	(4) This section does not prohibit the prosecution of a				
61	minor for conduct relating to material that includes the				
62	depiction of sexual conduct or sexual excitement and does not				
63	prohibit the prosecution of a minor for stalking under s.				
64	784.048.				
65	Section 2. This act shall take effect October 1, 2011.				

CODING: Words stricken are deletions; words <u>underlined</u> are additions.