

1 A bill to be entitled
 2 An act relating to the offense of sexting; providing that
 3 a minor commits the offense of sexting if he or she
 4 knowingly uses a computer, or any other device capable of
 5 electronic data transmission or distribution, to transmit
 6 or distribute to another minor any photograph or video of
 7 himself or herself which depicts nudity and is harmful to
 8 minors or possesses such photograph or video; providing
 9 noncriminal and criminal penalties; providing that the
 10 transmission, distribution, or possession of multiple
 11 photographs or videos is a single offense if the
 12 transmission occurs within a 24-hour period; providing
 13 that the act does not prohibit prosecution of a minor for
 14 conduct relating to material that includes the depiction
 15 of sexual conduct or sexual excitement or for stalking;
 16 defining the term "found to have committed"; providing an
 17 effective date.

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

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 21 Section 1. Sexting; prohibited acts; penalties.—
 22 (1) A minor commits the offense of sexting if he or she
 23 knowingly:
 24 (a) Uses a computer, or any other device capable of
 25 electronic data transmission or distribution, to transmit or
 26 distribute to another minor any photograph or video of himself
 27 or herself which depicts nudity, as defined in s. 847.001(9),

28 Florida Statutes, and is harmful to minors, as defined in s.
29 847.001(6), Florida Statutes.

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

32 (2)(a) The transmission or distribution of multiple
33 photographs or videos is a single offense if the photographs or
34 videos were transmitted or distributed within the same 24-hour
35 period.

36 (b) The possession of multiple photographs or videos that
37 were transmitted or distributed by a minor is a single offense
38 if the photographs or videos were transmitted or distributed by
39 the minor in the same 24-hour period.

40 (3) A minor who violates subsection (1):

41 (a) Commits a noncriminal violation for a first violation,
42 punishable by 8 hours of community service or, if ordered by the
43 court in lieu of community service, a \$60 fine. The court may
44 also order the minor to participate in suitable training or
45 instruction in lieu of, or in addition to, community service or
46 a fine.

47 (b) Commits a misdemeanor of the second degree for a
48 violation that occurs after being found to have committed a
49 noncriminal violation for sexting, punishable as provided in s.
50 775.082 or s. 775.083, Florida Statutes.

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

CS/HB 75

2011

55 (d) Commits a felony of the third degree for a violation
56 that occurs after being found to have committed a misdemeanor of
57 the first degree for sexting, punishable as provided in s.
58 775.082, s. 775.083, or s. 775.084, Florida Statutes.

59 (4) This section does not prohibit the prosecution of a
60 minor for a violation of any law of this state if the photograph
61 or video that depicts nudity also includes the depiction of
62 sexual conduct or sexual excitement, and does not prohibit the
63 prosecution of a minor for stalking under s. 784.048, Florida
64 Statutes.

65 (5) As used in this section, the term "found to have
66 committed" means a determination of guilt that is the result of
67 a plea or trial, or a finding of delinquency that is the result
68 of a plea or an adjudicatory hearing, regardless of whether
69 adjudication is withheld.

70 Section 2. This act shall take effect October 1, 2011.