

ENROLLED

CS/CS/HB 75, Engrossed 1

2011 Legislature

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 any person which depicts nudity and is harmful to minors;
8 providing that a minor commits the offense of sexting if
9 he or she knowingly possesses a photograph or video of any
10 person that was transmitted or distributed by another
11 minor which depicts nudity and is harmful to minors;
12 providing an exception; providing noncriminal and criminal
13 penalties; providing that the transmission, distribution,
14 or possession of multiple photographs or videos is a
15 single offense if the transmission occurs within a 24-hour
16 period; providing that the act does not prohibit
17 prosecution of a minor for conduct relating to material
18 that includes the depiction of sexual conduct or sexual
19 excitement or for stalking; defining the term "found to
20 have committed"; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Sexting; prohibited acts; penalties.—

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

27 (a) Uses a computer, or any other device capable of
28 electronic data transmission or distribution, to transmit or

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29 distribute to another minor any photograph or video of any
 30 person which depicts nudity, as defined in s. 847.001(9),
 31 Florida Statutes, and is harmful to minors, as defined in s.
 32 847.001(6), Florida Statutes.

33 (b) Possesses a photograph or video of any person that was
 34 transmitted or distributed by another minor which depicts
 35 nudity, as defined in s. 847.001(9), Florida Statutes, and is
 36 harmful to minors, as defined in s. 847.001(6), Florida
 37 Statutes. A minor does not violate paragraph this paragraph if
 38 all of the following apply:

39 1. The minor did not solicit the photograph or video.

40 2. The minor took reasonable steps to report the
 41 photograph or video to the minor's legal guardian or to a school
 42 or law enforcement official.

43 3. The minor did not transmit or distribute the photograph
 44 or video to a third party.

45 (2)(a) The transmission or distribution of multiple
 46 photographs or videos prohibited by paragraph (1)(a) is a single
 47 offense if the photographs or videos were transmitted or
 48 distributed within the same 24-hour period.

49 (b) The possession of multiple photographs or videos that
 50 were transmitted or distributed by a minor prohibited by
 51 paragraph (1)(b) is a single offense if the photographs or
 52 videos were transmitted or distributed by a minor in the same
 53 24-hour period.

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

55 (a) Commits a noncriminal violation for a first violation,
 56 punishable by 8 hours of community service or, if ordered by the

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57 court in lieu of community service, a \$60 fine. The court may
58 also order the minor to participate in suitable training or
59 instruction in lieu of, or in addition to, community service or
60 a fine.

61 (b) Commits a misdemeanor of the first degree for a
62 violation that occurs after being found to have committed a
63 noncriminal violation for sexting, punishable as provided in s.
64 775.082 or s. 775.083, Florida Statutes.

65 (c) Commits a felony of the third degree for a violation
66 that occurs after being found to have committed a misdemeanor of
67 the first degree for sexting, punishable as provided in s.
68 775.082, s. 775.083, or s. 775.084, Florida Statutes.

69 (4) This section does not prohibit the prosecution of a
70 minor for a violation of any law of this state if the photograph
71 or video that depicts nudity also includes the depiction of
72 sexual conduct or sexual excitement, and does not prohibit the
73 prosecution of a minor for stalking under s. 784.048, Florida
74 Statutes.

75 (5) As used in this section, the term "found to have
76 committed" means a determination of guilt that is the result of
77 a plea or trial, or a finding of delinquency that is the result
78 of a plea or an adjudicatory hearing, regardless of whether
79 adjudication is withheld.

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