



412044

LEGISLATIVE ACTION

Senate

House

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Floor: WD/2R

05/03/2011 11:49 AM

Senator Dean moved the following:

Senate Amendment (with title amendment)

Delete lines 23 - 53

and insert:

knowingly:

(a) Uses a computer or any other device capable of electronic data transmission or distribution to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined in s. 847.001(9), Florida Statutes, and is harmful to minors, as defined in s. 847.001(6), Florida Statutes.

(b) Possesses a photograph or video of any person which was transmitted or distributed by another minor, which depicts



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14 nudity, as defined in s. 847.001(9), Florida Statutes, and is
15 harmful to minors, as defined in s. 847.001(6), Florida
16 Statutes. A minor does not violate this paragraph if all of the
17 following apply:

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

19 2. The minor did not transmit, distribute, or display the
20 photograph or video to a third party.

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

25 (b) The possession of multiple photographs or videos that
26 were transmitted, distributed, or displayed by a minor
27 prohibited by paragraph (1) (b) is a single offense if the
28 photographs or videos were transmitted or distributed by a minor
29 in the same 24-hour period.

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

31 (a) Commits a noncriminal violation for a first violation,
32 punishable by 8 hours of community service, or, if ordered by
33 the court in lieu of community service, a \$60 fine. The court
34 may also order the minor to participate in suitable training or
35 instruction in lieu of, or in addition to, community service or
36 a fine.

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

41 (c) Commits a felony of the third degree for a violation
42 that occurs after being found to have committed a misdemeanor of



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43 the first degree for sexting, punishable as provided in s.
44 775.082, s. 775.083, or s. 775.084, Florida Statutes.

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

51 (5) As used in this section, the term "found to have

52
53 ===== T I T L E A M E N D M E N T =====

54 And the title is amended as follows:

55 Delete line 8

56 and insert:

57 depicts nudity and is harmful to minors; providing
58 that a minor commits the offense of sexting if he or
59 she knowingly possesses a photograph or video of any
60 person which was transmitted or distributed by another
61 minor, depicts nudity, and is harmful to minors;
62 providing an exception; providing