

By Senator Dean

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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 transmission, distribution, or
11 possession of multiple photographs or videos is a
12 single offense if the transmission occurs within a 24-
13 hour period; providing that the act does not prohibit
14 prosecution of a minor for conduct relating to
15 material that includes the depiction of sexual conduct
16 or sexual excitement or for stalking; defining the
17 term "conviction"; providing an 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 uses a computer, or any other device capable of
24 electronic data transmission or distribution, to transmit or
25 distribute to another minor any photograph or video of himself
26 or herself which depicts nudity, as defined in s. 847.001(9),
27 Florida Statutes, and is harmful to minors, as defined in s.
28 847.001(6), Florida Statutes.

29 (a) The transmission or distribution of multiple

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30 photographs or videos is a single offense if the photographs or
31 videos were transmitted or distributed within the same 24-hour
32 period.

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

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

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

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

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

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

56 (3) This section does not prohibit the prosecution of a
57 minor for a violation of any law of this state if the photograph
58 or video that depicts nudity also includes the depiction of

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59 sexual conduct or sexual excitement, and does not prohibit the
60 prosecution of a minor for stalking under s. 784.048, Florida
61 Statutes.

62 (4) As used in this section, the term "conviction" means a
63 determination of guilt that is the result of a plea or trial, or
64 a finding of delinquency that is the result of a plea or an
65 adjudicatory hearing, regardless of whether adjudication is
66 withheld.

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