

By the Committee on Judiciary; and Senator Dean

590-03221-11

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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 any person which  
8 depicts nudity and is harmful to minors; providing  
9 noncriminal and criminal penalties; providing that the  
10 transmission or distribution of multiple photographs  
11 or videos is a single offense if the transmission  
12 occurs within a 24-hour period; providing that the act  
13 does not prohibit prosecution of a minor for conduct  
14 relating to material that includes the depiction of  
15 sexual conduct or sexual excitement or for stalking;  
16 defining the term "found to have committed"; providing  
17 an effective date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
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 any  
26 person 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. The transmission or distribution  
29 of multiple photographs or videos is a single offense if the

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30 photographs or videos were transmitted or distributed within the  
31 same 24-hour period.

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

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

39 (b) Commits a misdemeanor of the second degree for a  
40 violation that occurs after being found to have committed a  
41 noncriminal violation for sexting, punishable as provided in s.  
42 775.082 or s. 775.083, Florida Statutes.

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

47 (d) Commits a felony of the third degree for a violation  
48 that occurs after being found to have committed a misdemeanor of  
49 the first degree for sexting, punishable as provided in s.  
50 775.082, s. 775.083, or s. 775.084, Florida Statutes.

51 (3) This section does not prohibit the prosecution of a  
52 minor for a violation of any law of this state if the photograph  
53 or video that depicts nudity also includes the depiction of  
54 sexual conduct or sexual excitement, and does not prohibit the  
55 prosecution of a minor for stalking under s. 784.048, Florida  
56 Statutes.

57 (4) As used in this section, the term "found to have  
58 committed" means a determination of guilt that is the result of

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59 a plea or trial, or a finding of delinquency that is the result  
60 of a plea or an adjudicatory hearing, regardless of whether  
61 adjudication is withheld.

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