

By the Committees on Communications, Energy, and Public Utilities; and Judiciary; and Senator Dean

579-03842-11

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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.

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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 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 first 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 felony of the third degree for a violation
44 that occurs after being found to have committed a misdemeanor of
45 the first degree for sexting, punishable as provided in s.
46 775.082, s. 775.083, or s. 775.084, Florida Statutes.

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

53 (4) As used in this section, the term "found to have
54 committed" means a determination of guilt that is the result of
55 a plea or trial, or a finding of delinquency that is the result
56 of a plea or an adjudicatory hearing, regardless of whether
57 adjudication is withheld.

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