

By Senator Simmons

10-00425C-13

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1 A bill to be entitled
2 An act relating to computer or electronic device
3 harassment; creating s. 847.0042, F.S.; prohibiting
4 knowing use of a computer or other device to transmit
5 or post any photograph or video of an individual which
6 depicts nudity and contains specified information
7 relating to the depicted individual without first
8 obtaining the depicted person's written consent;
9 providing an exception; providing criminal penalties;
10 providing enhanced penalties for violations by persons
11 18 years of age or older involving victims younger
12 than 16 years of age; providing for jurisdiction;
13 amending s. 921.244, F.S.; providing that a person
14 convicted of a violation of s. 847.0042, F.S., be
15 ordered to have no contact with the victim; providing
16 criminal penalties for violation of such an order;
17 providing an effective date.

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

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21 Section 1. Section 847.0042, Florida Statutes, is created
22 to read:

23 847.0042 Nude depictions with personal identifying
24 information.-

25 (1) A person may not knowingly use a computer or other
26 device capable of electronic data transmission or distribution
27 to transmit or post to a website or any other social networking
28 service, or cause to be posted to a website or any other social
29 networking service, any photograph or video of an individual

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30 which depicts nudity and contains any of the depicted
31 individual's personal identification information, as defined in
32 s. 817.568, or counterfeit or fictitious information purporting
33 to be such personal identification information, without first
34 obtaining the depicted person's written consent unless the
35 victim was photographed or videotaped in public and a lack of
36 objection to the photography or videotaping could reasonably be
37 implied by the victim's conduct.

38 (2) (a) Except as provided in paragraph (b), a person who
39 violates this section commits a felony of the third degree,
40 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

41 (b) A person who is 18 years of age or older at the time of
42 the transmission or posting of a video or photograph to a
43 website or any other social networking service, or the causing
44 to be posted to a website or any other social networking service
45 of a video or photograph, who violates this section through such
46 conduct and the violation involves a photograph or video of a
47 person who was younger than 16 years of age at the time of
48 making the photograph or video commits a felony of the second
49 degree, punishable as provided in s. 775.082, s. 775.083, or s.
50 775.084.

51 (3) An offense is committed within this state if any
52 conduct that is an element of the offense or any harm to the
53 depicted person, including any harm to the depicted person's
54 privacy interests, resulting from the offense occurs within this
55 state.

56 Section 2. Section 921.244, Florida Statutes, is amended to
57 read:

58 921.244 Order of no contact; penalties.—

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59 (1) At the time of sentencing an offender convicted of a
60 violation of s. 794.011, s. 800.04, s. 847.0042, s. 847.0135(5),
61 or any offense in s. 775.084(1)(b)1.a.-o., the court shall order
62 that the offender be prohibited from having any contact with the
63 victim, directly or indirectly, including through a third
64 person, for the duration of the sentence imposed. The court may
65 reconsider the order upon the request of the victim if the
66 request is made at any time after the victim has attained 18
67 years of age. In considering the request, the court shall
68 conduct an evidentiary hearing to determine whether a change of
69 circumstances has occurred which warrants a change in the court
70 order prohibiting contact and whether it is in the best interest
71 of the victim that the court order be modified or rescinded.

72 (2) Any offender who violates a court order issued under
73 this section commits a felony of the third degree, punishable as
74 provided in s. 775.082, s. 775.083, or s. 775.084.

75 (3) The punishment imposed under this section shall run
76 consecutive to any former sentence imposed for a conviction for
77 any offense under s. 794.011, s. 800.04, s. 847.0135(5), or any
78 offense in s. 775.084(1)(b)1.a.-o.

79 Section 3. This act shall take effect October 1, 2013.