

By the Committees on Judiciary; and Criminal Justice; and  
Senator Simmons

590-02103-14

2014532c2

1 A bill to be entitled  
2 An act relating to the disclosure of sexually explicit  
3 images; creating s. 847.0136, F.S.; providing  
4 definitions; prohibiting an individual from disclosing  
5 a sexually explicit image of an identifiable person  
6 with the intent to harass such person if the  
7 individual knows or should have known such person did  
8 not consent to the disclosure; providing criminal  
9 penalties; providing for jurisdiction; providing  
10 exceptions; amending s. 921.244, F.S.; requiring a  
11 court to order that a person convicted of such offense  
12 be prohibited from having contact with the victim;  
13 providing criminal penalties for a violation of such  
14 order; providing that criminal penalties for certain  
15 offenses run consecutively with a sentence imposed for  
16 a violation of s. 847.0136, F.S.; providing  
17 applicability; providing an effective date.

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

20  
21 Section 1. Section 847.0136, Florida Statutes, is created  
22 to read:

23 847.0136 Prohibited electronic disclosure of sexually  
24 explicit images; penalties; jurisdiction.-

25 (1) As used in this section, the term:

26 (a) "Disclose" means to publish, post, distribute, exhibit,  
27 advertise, offer, or transfer, or cause to be published, posted,  
28 distributed, exhibited, advertised, offered, or transferred.

29 (b) "Harass" means to engage in conduct directed at a

590-02103-14

2014532c2

30 specific person which causes substantial emotional distress to  
31 that person and serves no legitimate purpose.

32 (c) "Identifiable person" means an individual in a sexually  
33 explicit image who can be identified through:

34 1. Visual recognition of any part of his or her body  
35 depicted in the sexually explicit image; or

36 2. Identifying information as defined in s. 397.311 which  
37 accompanies or is associated with the sexually explicit image.

38 (d) "Sexually explicit image" means a private photograph,  
39 film, videotape, recording, or other reproduction of:

40 1. Nudity; or

41 2. Sexual intercourse, including, but not limited to, oral  
42 sexual intercourse or anal sexual intercourse.

43 (2) An individual may not intentionally and knowingly  
44 disclose a sexually explicit image of an identifiable person to  
45 a social networking service or a website, or by means of any  
46 other electronic medium, with the intent to harass such person,  
47 if the individual knows or should have known that the person  
48 depicted in the sexually explicit image did not consent to such  
49 disclosure.

50 (3) (a) Except as provided in paragraph (b), an individual  
51 who violates this section commits a second degree misdemeanor,  
52 punishable as provided in s. 775.082 or s. 775.083.

53 (b) An individual who is 18 years of age or older at the  
54 time he or she violates this section commits a first degree  
55 misdemeanor, punishable as provided in s. 775.082 or s. 775.083,  
56 if the violation involves a sexually explicit image of an  
57 individual who was younger than 16 years of age at the time the  
58 sexually explicit image was created.

590-02103-14

2014532c2

59 (4) A violation of this section is committed within this  
60 state if any conduct that is an element of the offense described  
61 in subsection (2), or any harm to the identifiable person  
62 resulting from the offense described in subsection (2), occurs  
63 within this state.

64 (5) This section does not apply to the disclosure of a  
65 sexually explicit image for:

66 (a) The reporting, investigation, and prosecution of an  
67 alleged crime for law enforcement purposes.

68 (b) Voluntary and consensual purposes in public or  
69 commercial settings.

70 (6) This section does not impose liability on any provider  
71 of an interactive computer service, as defined in 47 U.S.C. s.  
72 230(f); of an information service, as defined in 47 U.S.C. s.  
73 153; or of communications services, as defined in s. 202.11,  
74 for:

75 (a) The transmission, storage, or caching of electronic  
76 communications or messages of other persons;

77 (b) Other related telecommunications or commercial mobile  
78 radio service; or

79 (c) Content provided by another person.

80 Section 2. Section 921.244, Florida Statutes, is amended to  
81 read:

82 921.244 Order of no contact; penalties.—

83 (1) At the time of sentencing an offender convicted of a  
84 violation of s. 794.011, s. 800.04, s. 847.0135(5), s. 847.0136,  
85 or any offense in s. 775.084(1)(b)1.a.-o., the court shall order  
86 that the offender be prohibited from having any contact with the  
87 victim, directly or indirectly, including through a third

590-02103-14

2014532c2

88 person, for the duration of the sentence imposed. The court may  
89 reconsider the order upon the request of the victim if the  
90 request is made at any time after the victim has attained 18  
91 years of age. In considering the request, the court shall  
92 conduct an evidentiary hearing to determine whether a change of  
93 circumstances has occurred which warrants a change in the court  
94 order prohibiting contact and whether it is in the best interest  
95 of the victim that the court order be modified or rescinded.

96 (2) An ~~Any~~ offender who violates a court order issued under  
97 this section commits a felony of the third degree, punishable as  
98 provided in s. 775.082, s. 775.083, or s. 775.084.

99 (3) The punishment imposed under this section shall run  
100 consecutive to any former sentence imposed for a conviction for  
101 any offense under s. 794.011, s. 800.04, s. 847.0135(5), s.  
102 847.0136, or any offense in s. 775.084(1)(b)1.a.-o.

103 Section 3. This act shall take effect October 1, 2014.