

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

590-02103-14

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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.

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

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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

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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.

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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

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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.