

By Senator Abruzzo

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1 A bill to be entitled
2 An act relating to sexting; amending s. 847.0141,
3 F.S.; removing the court's discretion to impose a
4 specified penalty for a first violation of sexting;
5 requiring a minor cited for a first violation to sign
6 and accept a citation to appear before juvenile court
7 or, in lieu of appearing in court, to complete
8 community service work, pay a civil penalty, or
9 participate in a cyber-safety program within a certain
10 period of time, if such program is locally available;
11 requiring the citation to be in a form prescribed by
12 the issuing law enforcement agency; requiring such
13 citation to include certain information; authorizing a
14 court to order certain penalties under certain
15 circumstances; authorizing a court to order specified
16 additional penalties in certain circumstances;
17 prohibiting the court from imposing incarceration;
18 specifying that all court records and any information
19 obtained or produced are confidential; providing
20 retroactive application of confidentiality provisions
21 for certain violations; conforming provisions to
22 changes made by the act; requiring that a specified
23 percentage of civil penalties received by a juvenile
24 court be remitted by the clerk of court to the county
25 commission to provide cyber-safety training for
26 minors; requiring that the remaining percentage remain
27 with the clerk of the court to cover administrative
28 costs; amending s. 985.0301, F.S.; creating exclusive
29 original jurisdiction in the circuit court when a

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30 child is alleged to have committed a noncriminal
31 violation that is assigned to juvenile court;
32 providing an effective date.
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34 Be It Enacted by the Legislature of the State of Florida:
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36 Section 1. Subsections (3) and (5) of section 847.0141,
37 Florida Statutes, are amended, and subsection (6) is added to
38 that section, to read:

39 847.0141 Sexting; prohibited acts; penalties.—

40 (3) A minor who violates subsection (1):

41 (a) ~~Commits a noncriminal violation for a first violation,~~
42 ~~punishable by 8 hours of community service or, if ordered by the~~
43 ~~court in lieu of community service, a \$60 fine. The court may~~
44 ~~also order the minor to participate in suitable training or~~
45 ~~instruction in lieu of, or in addition to, community service or~~
46 ~~a fine. The minor must sign and accept a citation indicating a~~
47 promise to appear before the juvenile court. In lieu of
48 appearing in court, the minor may complete 8 hours of community
49 service work, pay a \$60 civil penalty, or participate in a
50 cyber-safety program, if such a program is locally available.
51 The minor must satisfy any penalty within 30 days after receipt
52 of the citation.

53 1. A citation issued to a minor under this subsection must
54 be in a form prescribed by the issuing law enforcement agency,
55 must be signed by the minor, and must contain all of the
56 following:

57 a. The date and time of issuance.

58 b. The name and address of the minor to whom the citation

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59 is issued.

60 c. A thumbprint of the minor to whom the citation is
61 issued.

62 d. Identification of the noncriminal violation and the time
63 it was committed.

64 e. The facts constituting reasonable cause.

65 f. The specific section of law violated.

66 g. The name and authority of the citing officer.

67 h. The procedures that the minor must follow to contest the
68 citation, perform the required community service, pay the civil
69 penalty, and participate in a cyber-safety program.

70 2. If the citation is contested and the court determines
71 that the minor committed a noncriminal violation under this
72 section, the court may order the minor to perform 8 hours of
73 community service, pay a \$60 civil penalty, or participate in a
74 cyber-safety program, or any combination thereof.

75 3. A minor who fails to comply with the citation waives his
76 or her right to contest it, and the court may impose any of the
77 penalties identified in subparagraph 2. or issue an order to
78 show cause. Upon a finding of contempt, the court may impose
79 additional age-appropriate penalties, which may include issuance
80 of an order to the Department of Highway Safety and Motor
81 Vehicles to withhold issuance of, or suspend the driver license
82 or driving privilege of, the minor for 30 consecutive days.
83 However, the court may not impose incarceration.

84 4. All court records and information obtained or produced
85 under this paragraph shall be afforded the same level of
86 confidentiality provided under ss. 985.04 and 985.045. All
87 noncriminal violations for sexting that occurred on or after

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88 October 1, 2011, are considered confidential.

89 (b) Commits a misdemeanor of the first degree for a
90 violation that occurs after the minor has been ~~being~~ found to
91 have committed a noncriminal violation for sexting or has
92 satisfied the penalty imposed in lieu of a court appearance as
93 provided in paragraph (a), punishable as provided in s. 775.082
94 or s. 775.083.

95 (c) Commits a felony of the third degree for a violation
96 that occurs after the minor has been ~~being~~ found to have
97 committed a misdemeanor of the first degree for sexting,
98 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

99 (5) As used in this section, the term "found to have
100 committed" means a determination of guilt that is the result of
101 a plea or trial, or a finding of delinquency that is the result
102 of a plea or an adjudicatory hearing, regardless of whether
103 adjudication is withheld.

104 (6) Eighty percent of all civil penalties received by a
105 juvenile court pursuant to this section shall be remitted by the
106 clerk of the court to the county commission to provide training
107 on cyber safety for minors. The remaining 20 percent shall
108 remain with the clerk of the court to defray administrative
109 costs.

110 Section 2. Subsection (1) of section 985.0301, Florida
111 Statutes, is amended to read:

112 985.0301 Jurisdiction.—

113 (1) The circuit court has exclusive original jurisdiction
114 of proceedings in which a child is alleged to have committed:

115 (a) ~~to have committed~~ A delinquent act or violation of law.

116 (b) A noncriminal violation that has been assigned to

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117 juvenile court by law.

118 Section 3. This act shall take effect October 1, 2015.