

The Florida Senate  
**HOUSE MESSAGE SUMMARY**

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: CS/CS/SB 538

INTRODUCER: Rules Committee; Criminal Justice Committee; and Senators Simmons and Soto

SUBJECT: Disclosure of Sexually Explicit Images

DATE: April 27, 2015

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**I. Amendments Contained in Message:**

**House Amendment 1 – 067405** (body and title)

**II. Summary of Amendments Contained in Message:**

**House Amendment 1** contains legislative findings while the Senate Bill does not. The amendment makes it a first degree misdemeanor for a person who willfully and maliciously sexually cyberharasses another person while the Senate bill creates a slightly lesser standard making it a first degree misdemeanor when a person knowing and intentionally discloses electronic sexually explicit images.

The amendment defines “sexually explicit image” as any image depicting nudity as defined in s. 847.001, F.S., (showing of the human male or female genitals, pubic area, or buttocks with less than fully opaque covering; or the showing of the female breast with less than fully opaque covering of any portion below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state), or depicting a person engaging in sexual conduct, as defined in s. 847.001, F.S., while the Senate bill defines “sexually explicit image” as a private photograph, film, videotape, recording or other reproduction of nudity or sexual intercourse including but not limited to oral sexual intercourse or anal sexual intercourse.

The amendment amends s. 901.15, F.S., to permit a law enforcement officer to arrest a person without a warrant when there is probable cause to believe that the person has committed sexual cyberharassment while the Senate bill does not contain a similar provision.

The amendment and the Senate bill have similar provisions authorizing an aggrieved person to initiate a civil action against a person who commits sexual cyberharassment to obtain all appropriate relief in order to prevent or remedy a violation. This relief includes:

- Injunctive relief; monetary damages to include \$5,000 dollars or actual damages incurred, whichever is greater; and reasonable attorney fees and costs.

The Amendment and Senate bill both have exceptions to the applicability of the provisions that includes that providers of Internet and storage services, or other information and communication services, such as electronic communications and messaging, are not liable under the provisions of this bill whereas the House bill has no such provision.

The amendment and the Senate bill both have effective dates of October 1, 2015.