

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Justice Appropriations
 2 Subcommittee

3 Representative Kerner offered the following:

Amendment (with title amendment)

6 Remove lines 77-106 and insert:

7 delivered, including the act of providing access for receiving
 8 and causing to be delivered, an ~~any~~ image, information, or data
 9 ~~from one or more persons or places to one or more other persons~~
 10 ~~or places~~ over or through any medium, including the Internet or
 11 an interconnected network, by use of ~~any~~ electronic equipment or
 12 device.

13 (2) Notwithstanding ss. 847.012 and 847.0133, a ~~any~~ person
 14 in this state who knew or reasonably should have known that he
 15 or she was transmitting child pornography, ~~as defined in s.~~
 16 ~~847.001,~~ to another person in this state or in another
 17 jurisdiction commits a felony of the third degree, punishable as

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18 provided in s. 775.082, s. 775.083, or s. 775.084.

19 (3) Notwithstanding ss. 847.012 and 847.0133, a ~~any~~ person
20 in any jurisdiction other than this state who knew or reasonably
21 should have known that he or she was transmitting child
22 pornography, as defined in s. 847.001, to a ~~any~~ person in this
23 state commits a felony of the third degree, punishable as
24 provided in s. 775.082, s. 775.083, or s. 775.084.

25 (4) This section shall not be construed to prohibit
26 prosecution of a person in this state or another jurisdiction
27 for a violation of any law of this state, including a law
28 providing for greater penalties than prescribed in this section,
29 for the transmission of child pornography, ~~as defined in s.~~
30 ~~847.001,~~ to a ~~any~~ person in this state.

31 (5) A person is subject to prosecution in this state
32 pursuant to chapter 910 for an ~~any~~ act or conduct proscribed by
33 this section, including a person in a jurisdiction other than
34 this state, if the act or conduct violates subsection (3).

35 (6) ~~The provisions of~~ This section does ~~de~~ not apply to
36 subscription-based transmissions such as list servers.

37 Section 4. The amendment made by this act to s.
38 847.0137(1), Florida Statutes, adding ", including the act of
39 providing access for receiving and causing to be delivered," is
40 intended to clarify existing law. The Legislature finds that the
41 opinion in *Smith v. State*, 40 Fla. L. Weekly D738 (Fla. 4th DCA
42 Mar. 25, 2015), correctly construes the legislative intent for
43 the statutory definition of "transmit" and that the opinion in

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44 Biller v. State, 109 So. 3d 1240 (Fla. 5th DCA 2013),
45 incorrectly construes the legislative intent for such
46 definition.

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T I T L E A M E N D M E N T

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Remove line 11 and insert:

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circumstances; providing legislative intent; reenacting ss.

52

92.561(1) and