

By Senator Martin

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1 A bill to be entitled
2 An act relating to sexual cyberharassment; amending s.
3 784.049, F.S.; revising legislative findings; defining
4 the terms "digitally forged intimate image" and
5 "intimate image"; revising the definition of the term
6 "sexually cyberharass"; providing criminal penalties
7 for persons who recklessly, rather than willfully and
8 maliciously, sexually cyberharass other persons;
9 providing criminal penalties for persons who commit
10 the offense of sexual cyberharassment with a specified
11 intent or purpose; providing enhanced criminal
12 penalties for second or subsequent violations;
13 providing time limitations for which the prosecution
14 of specified offenses must be commenced; authorizing
15 an aggrieved person to initiate a civil action to
16 recover punitive damages; providing an effective date.

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

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20 Section 1. Present subsections (4), (5), (6), and (7) of
21 section 784.049, Florida Statutes, are redesignated as
22 subsections (5), (7), (8), and (9), respectively, new
23 subsections (4) and (6) are added to that section, and
24 paragraphs (a), (b), and (d) of subsection (1), subsections (2)
25 and (3), and present subsection (5) of that section are amended,
26 to read:

27 784.049 Sexual cyberharassment.—

28 (1) The Legislature finds that:

29 (a) A person depicted in a sexually explicit image taken

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30 with the person's consent may retain a reasonable expectation
31 that the image will remain private despite sharing the image
32 with another person, ~~such as an intimate partner.~~

33 (b) It is becoming a common practice for persons to publish
34 a sexually explicit image of another to Internet websites or to
35 disseminate such an image through electronic means without the
36 depicted person's consent, contrary to the depicted person's
37 reasonable expectation of privacy, ~~for no legitimate purpose,~~
38 ~~with the intent of causing substantial emotional distress to the~~
39 ~~depicted person.~~

40 (d) The publication or dissemination of such images through
41 the use of Internet websites or electronic means creates a
42 permanent record of the depicted person's private nudity so as
43 to expose the genitals, pubic area, buttocks, or female breast,
44 or when genitals, pubic area, buttocks, or female breast are not
45 exposed but such videographic or still image is obscene or
46 depicts private sexually explicit conduct.

47 (2) As used in this section, the term:

48 (a) "Digitally forged intimate image" means any intimate
49 image of an identifiable individual which appears to a
50 reasonable person to be indistinguishable from an authentic
51 visual depiction of the individual, and which is generated or
52 substantially modified using machine-learning techniques or any
53 other computer-generated or machine-generated means to falsely
54 depict an individual's appearance or conduct, regardless of
55 whether the visual depiction indicates, through a label or some
56 other form of information published with the visual depiction,
57 that the visual depiction is not authentic.

58 (b) "Image" includes, but is not limited to, any

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59 photograph, picture, motion picture, film, video, or
60 representation.

61 (c)(b) "Intimate image" means any still or videographic
62 image that depicts wholly or partially uncovered genitals, pubic
63 area, anus, or post-pubescent female nipple or areola of an
64 individual; the display or transfer of semen or vaginal
65 secretion; or sexually explicit conduct.

66 (d) "Personal identification information" means any
67 information that identifies an individual, and includes, but is
68 not limited to, any name, postal or electronic mail address,
69 telephone number, social security number, date of birth, or any
70 unique physical representation.

71 (e)(e) "Sexually cyberharass" means to intentionally
72 publish to an Internet website or disseminate through electronic
73 means to another person a sexually explicit image of a person
74 that contains or conveys the personal identification information
75 of the depicted person without the depicted person's consent,
76 contrary to the depicted person's reasonable expectation that
77 the image would remain private, for no legitimate purpose, with
78 the intent of causing substantial emotional distress to the
79 depicted person. Evidence that the depicted person sent a
80 sexually explicit image to another person does not, on its own,
81 remove his or her reasonable expectation of privacy for that
82 image. Absent affirmative consent to disseminate, intimate
83 content creators have a reasonable expectation that individuals
84 who view their content may not record or disseminate it.

85 (f)(d) "Sexually explicit image" means any image depicting
86 nudity₇ as defined in s. 847.001₇ or depicting a person engaging
87 in sexual conduct₇ as defined in s. 847.001.

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88 (3) (a) Except as provided in paragraph (b), a person who
89 recklessly ~~willfully and maliciously~~ sexually cyberharasses
90 another person commits a misdemeanor of the first degree,
91 punishable as provided in s. 775.082 or s. 775.083.

92 (b) A person who has one prior conviction for sexual
93 cyberharassment and after an intervening adjudication for a
94 previous violation of this section ~~who~~ commits a second or
95 subsequent sexual cyberharassment commits a felony of the third
96 degree, punishable as provided in s. 775.082, s. 775.083, or s.
97 775.084.

98 (4) A person who violates subsection (3) with the intent to
99 cause physical, mental, economic, or reputational harm to an
100 individual portrayed in the image, or for the purpose of profit
101 or pecuniary gain, commits a felony in the third degree,
102 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
103 A second or subsequent conviction under this subsection, after
104 an intervening adjudication for a previous violation of this
105 section, commits a felony of the third degree, punishable as
106 provided in s. 775.082, s. 775.083, or s. 775.084, and must be
107 sentenced to not more than 10 years in prison, a fine of up to
108 \$10,000, or both.

109 (6) Prosecution for a misdemeanor violation of this section
110 must be commenced within 5 years after the commission of the
111 offense or within 3 years after the date the victim discovers
112 the offense or, by the exercise of due diligence, reasonably
113 should have discovered the offense, whichever is later.
114 Prosecution for a felony violation of this section must be
115 commenced within 7 years after the commission of the offense or
116 within 3 years after the date the victim discovers the offense

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117 or, by the exercise of due diligence, reasonably should have
118 discovered the offense, whichever is later.

119 (7)~~(5)~~ An aggrieved person may initiate a civil action
120 against a person who violates this section to obtain all
121 appropriate relief in order to prevent or remedy a violation of
122 this section, including the following:

123 (a) Injunctive relief.

124 (b) Monetary damages to include \$10,000 or actual damages
125 incurred as a result of a violation of this section, whichever
126 is greater.

127 (c) Punitive damages.

128 (d) Reasonable attorney fees and costs.

129 Section 2. This act shall take effect July 1, 2025.