

By the Committee on Criminal Justice; and Senator Martin

591-02564-25

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A bill to be entitled
An act relating to sexual cyberharassment; amending s.
784.049, F.S.; providing and revising legislative
findings and definitions; providing criminal penalties
for persons who sexually cyberharass other persons
with specified intent or purpose; providing criminal
penalties for persons who commit the offense of sexual
cyberharassment with a specified intent or purpose;
providing enhanced criminal penalties for second or
subsequent violations; authorizing an aggrieved person
to initiate a civil action to recover punitive
damages; making technical changes; amending s. 775.15,
F.S.; providing time limitations for commencing
prosecution for violations of sexual cyberharassment;
providing an effective date.

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

Section 1. Present paragraphs (d), (e), and (f) of
subsection (1) of section 784.049, Florida Statutes, are
redesignated as paragraphs (e), (f), and (g), respectively,
present subsections (4) through (7) are redesignated as
subsections (5) through (8), respectively, a new paragraph (d)
is added to subsection (1) and a new subsection (4) is added to
that section, and paragraph (a) of subsection (1), subsections
(2) and (3), and present subsection (5) of that section are
amended, to read:

784.049 Sexual cyberharassment.—

(1) The Legislature finds that:

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(a) A person depicted in a sexually explicit image taken with the person's consent retains ~~may retain~~ a reasonable expectation that the image will remain private despite sharing the image with another person, ~~such as an intimate partner~~.

(d) A person depicted in a digitally forged intimate image created by or with the consent of the depicted person retains a reasonable expectation of privacy despite sharing the image with another person.

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

(a) "Digitally forged intimate image" means an image that has been created, altered, adopted, or modified by electronic, mechanical, or other computer-generated means; depicts nudity of an identifiable individual as defined in s. 847.001; and appears to a reasonable person to be indistinguishable from an authentic visual depiction of the individual, regardless of whether the visual depiction indicates, through a label or some other form of information published with the visual depiction, that the visual depiction is not authentic.

(b) "Image" includes, but is not limited to, any photograph, picture, motion picture, film, video, or representation.

(c) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not, under any circumstance, constitute nudity, regardless of whether the nipple is covered during or incidental to

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59 feeding.

60 (d)~~(b)~~ "Personal identification information" means any
61 information that identifies an individual, and includes, but is
62 not limited to, any name, postal or electronic mail address,
63 telephone number, social security number, date of birth, or any
64 unique physical representation.

65 (e)~~(e)~~ "Sexually cyberharass" means to publish to an
66 Internet website or disseminate through electronic means to
67 another person a sexually explicit image of a person that
68 contains or conveys the personal identification information of
69 the depicted person without the depicted person's consent,
70 contrary to the depicted person's reasonable expectation that
71 the image would remain private, for no legitimate purpose, with
72 the intent of causing substantial emotional distress to the
73 depicted person. Evidence that the depicted person sent a
74 sexually explicit image to another person does not, on its own,
75 remove his or her reasonable expectation of privacy for that
76 image. Absent affirmative consent to disseminate, the depicted
77 person retains his or her reasonable expectation of privacy.

78 (f)~~(d)~~ "Sexually explicit image" means a digitally forged
79 intimate image or an ~~any~~ image depicting nudity, ~~as defined in~~
80 ~~s. 847.001,~~ or depicting a person engaging in sexual conduct, ~~as~~
81 defined in s. 847.001.

82 (3)(a) Except as provided in paragraph (b), a person who
83 willfully and maliciously sexually cyberharasses another person
84 commits a misdemeanor of the first degree, punishable as
85 provided in s. 775.082 or s. 775.083.

86 (b) Upon a second or subsequent ~~a person who has one prior~~
87 conviction for a violation of paragraph (a), a person ~~sexual~~

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~~cyberharassment and who commits a second or subsequent sexual~~
~~cyberharassment~~ commits a felony of the third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) (a) Except as provided in paragraph (b), a person who
violates paragraph (3) (a) with the intent to cause physical,
mental, economic, or reputational harm to an individual
portrayed in the image, or for the purpose of profit or
pecuniary gain, commits a felony of the third degree, punishable
as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Upon a second or subsequent conviction for a violation
of paragraph (a), a person commits a felony of the second
degree, punishable as provided in s. 775.082, or s. 775.083, or
s. 775.084.

~~(6) (5)~~ An aggrieved person may initiate a civil action
against a person who violates this section to obtain all
appropriate relief in order to prevent or remedy a violation of
this section, including all of the following:

(a) Injunctive relief.

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

(c) Punitive damages.

(d) (e) Reasonable attorney fees and costs.

Section 2. Subsection (22) is added to section 775.15,
Florida Statutes, to read:

775.15 Time limitations; general time limitations;
exceptions.—

(22) (a) A prosecution for a misdemeanor violation of s.
784.049 must be commenced within 5 years after the commission of

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117 the offense or within 3 years after the date on which the victim
118 obtains knowledge of the offense or should have obtained such
119 knowledge by the exercise of due diligence.

120 (b) A prosecution for a felony violation of s. 784.049 must
121 be commenced within 7 years after the commission of the offense
122 or within 3 years after the date on which the victim obtains
123 knowledge of the offense or should have obtained such knowledge
124 by the exercise of due diligence.

125 Section 3. This act shall take effect October 1, 2025.