

# FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 1451](#)

**TITLE:** Sexual Cyberharassment

**SPONSOR(S):** Baker

**COMPANION BILL:** [CS/SB 1084](#) (Martin)

**LINKED BILLS:** None

**RELATED BILLS:** None

## Committee References

[Criminal Justice](#)

16 Y, 0 N, As CS



[Judiciary](#)

## SUMMARY

### **Effect of the Bill:**

CS/HB 1451 revises the elements of the offense of sexual cyberharassment to remove the requirement from current law that an offender must have specified intent to commit a violation and to allow the publishing or dissemination of a sexually explicit image that does not contain the depicted person's personal identifying information (PII) to constitute a violation if the PII of the depicted person is contemporaneously published or disseminated in a specified manner. The bill creates an enhanced penalty, making a sexual cyberharassment offense punishable as a third-degree felony instead of a first-degree misdemeanor, if a person commits an act of sexual cyberharassment for the purpose of pecuniary gain.

The bill extends the statute of limitations for violations of sexual cyberharassment and authorizes a victim to recover punitive damages in a civil action against the offender. The bill includes sexual cyberharassment for pecuniary gain as a "felony sexual offense," a conviction for which precludes a person from having his or her voting rights restored without restoration of his or her civil rights.

### **Fiscal or Economic Impact:**

The bill may have an indeterminate positive impact on jail and prison beds by creating a new felony offense for sexual cyberharassment, authorizing a prior withhold of adjudication to constitute a prior conviction for purposes of an enhanced felony charge, and altering the elements of sexual cyberharassment, which may result in more jail and prison admissions and offenders being sentenced to longer terms of incarceration. Additionally, the bill may have an indeterminate positive fiscal impact on any victim of sexual cyberharassment by authorizing such a person to recover punitive damages in a civil action against the offender.

[JUMP TO](#)

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

[BILL HISTORY](#)

## ANALYSIS

### **EFFECT OF THE BILL:**

CS/HB 1451 revises the elements of the offense of [sexual cyberharassment](#) by doing the following:

- Removing a requirement that a sexually explicit image that contains or conveys the personal identification information (PII) of the depicted person be published or disseminated for no legitimate purpose in order to constitute sexual cyberharassment.
- Removing the requirement that an offender intend to cause substantial emotional distress to the depicted person.
- Revising the current requirement that the PII of the depicted person be conveyed in the image itself, and alternatively allowing the publication or dissemination of a sexually explicit image to constitute a violation of sexual cyberharassment if the depicted person's PII is published or disseminated contemporaneously with the sexually explicit image in such a manner that a person viewing the PII would reasonably know that such information directly relates to the person depicted in the sexually explicit image. (Section [1](#))

**STORAGE NAME:** h1451a.CRM

**DATE:** 4/1/2025

The bill expands the current definition of “sexually explicit image” to include images that depict the display of semen or vaginal secretion on a person. (Section [1](#))

The bill creates an enhanced penalty, making a sexual cyberharassment offense punishable as a third-degree felony instead of a first-degree misdemeanor, if a person commits an act of sexual cyberharassment for the purpose of pecuniary or any other financial gain. (Section [1](#))

A second or subsequent commission of an act of sexual cyberharassment for pecuniary gain is punishable as a second-degree felony. (Section [1](#))

For the purpose of determining when a second or subsequent offense is committed, the bill defines a “conviction” as a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered. (Section [1](#))

The bill allows a victim of sexual cyberharassment to recover punitive damages in a civil action. (Section [1](#))

The bill extends the [statute of limitations](#) for violations of sexual cyberharassment as follows:

- For a misdemeanor, prosecution must be commenced within five years after the commission of the offense or within three years after the date the victim discovers the offense, whichever is later.
- For a felony, prosecution must be commenced within seven years after the commission of the offense or within three years after the date the victim discovers the offense, whichever is later. (Section [2](#))

The bill includes sexual cyberharassment for pecuniary gain as a “felony sexual offense,” a conviction for which precludes a person from having his or her [voting rights restored](#) without restoration of his or her civil rights. (Section [3](#))

The bill provides an effective date of October 1, 2025. (Section [4](#))

## **FISCAL OR ECONOMIC IMPACT:**

### STATE GOVERNMENT:

The bill may have an indeterminate positive impact on prison beds by creating a new felony offense for sexual cyberharassment for pecuniary gain, authorizing a prior withhold of adjudication for an offense related to sexual cyberharassment to constitute a prior conviction for purposes of an enhanced felony charge, and altering the elements of sexual cyberharassment, which may result in more prison admissions and offenders being sentenced to longer terms of incarceration.

### LOCAL GOVERNMENT:

The bill may have an indeterminate positive impact on jail beds by creating a new felony offense for sexual cyberharassment for pecuniary gain, authorizing a prior withhold of adjudication for an offense related to sexual cyberharassment to constitute a prior conviction for purposes of an enhanced felony charge, and altering the elements of sexual cyberharassment, which may result in more jail admissions and offenders being sentenced to longer terms of incarceration.

### PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact on any victim of sexual cyberharassment by authorizing such a person to recover punitive damages in a civil action against the offender.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### [Sexual Cyberharassment](#)

Under Florida law, “sexual cyberharassment” means to publish to an Internet website or disseminate through electronic means to another person a sexually explicit image of a person that contains or conveys the personal identification information<sup>1</sup> of the depicted person without the depicted person’s consent, contrary to the depicted person’s reasonable expectation that the image would remain private, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person.<sup>2</sup>

“Sexually explicit image” means any image depicting nudity or depicting a person engaging in sexual conduct.<sup>3, 4</sup>

“Nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or 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.<sup>5</sup>

A person who willfully and maliciously sexually cyberharasses another person commits a first-degree misdemeanor,<sup>6</sup> and a second or subsequent offense of sexual cyberharassment is a third-degree felony.<sup>7</sup> In addition to criminal penalties, an aggrieved person may initiate a civil action to obtain injunctive relief, \$10,000 in monetary damages or actual damages incurred, and reasonable attorney fees and costs.<sup>8</sup>

#### [Promotion of Sexually Explicit Images for Pecuniary Gain](#)

Section [836.14\(4\), F.S.](#), prohibits a person from willfully promoting,<sup>9</sup> through the use of print media, an Internet website, or other electronic means, for the purpose of pecuniary or any other financial gain, a sexually explicit image<sup>10</sup> without consent of the identifiable person.<sup>11</sup> A violation of this prohibition is a second-degree felony.<sup>12</sup>

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<sup>1</sup> “Personal identification information” means any information that identifies an individual, and includes, but is not limited to, any name, postal or electronic mail address, telephone number, social security number, date of birth, or any unique physical representation. S. [784.049\(2\)\(b\), F.S.](#)

<sup>2</sup> S. [784.049\(2\)\(c\), F.S.](#) Evidence that the depicted person sent a sexually explicit image to another person does not, on its own, remove his or her reasonable expectation of privacy for that image.

<sup>3</sup> “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.” S. [847.001\(19\), F.S.](#)

<sup>4</sup> S. [784.049\(2\)\(d\), F.S.](#)

<sup>5</sup> S. [847.001\(11\), F.S.](#) A mother’s breastfeeding of her baby does not under any circumstance constitute “nudity,” irrespective of whether or not the nipple is covered during or incidental to feeding.

<sup>6</sup> A first-degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Ss. [775.082](#) and [775.083, F.S.](#)

<sup>7</sup> S. [784.049\(3\), F.S.](#) A third-degree felony is punishable by up to five years’ imprisonment and a \$5,000 fine. Ss. [775.082](#), [775.083](#), or [775.084, F.S.](#)

<sup>8</sup> S. [784.049\(5\), F.S.](#)

<sup>9</sup> “Promote” means to issue, sell, give, provide, lend, mail, deliver, transfer, transmit, transmute, publish, distribute, circulate, disseminate, present, exhibit, send, post, share, or advertise or to offer or agree to do the same. S. [836.13\(1\)\(d\), F.S.](#)

<sup>10</sup> “Sexually explicit image” means any image depicting an identifiable person portraying nudity as defined in s. [847.001, F.S.](#), or an identifiable person engaging in sexual conduct as defined in s. [847.001, F.S.](#) S. [836.14\(1\)\(c\), F.S.](#)

<sup>11</sup> “Identifiable person” means a person who is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark, or other recognizable feature. S. [836.13\(1\)\(b\), F.S.](#)

<sup>12</sup> A second-degree felony is punishable by up to 15 years’ imprisonment and a \$10,000 fine. Ss. [775.082](#), [775.083](#), or [775.084, F.S.](#)

## [Time Limitations for Prosecution](#)

The statute of limitations (SOL) determines the timeframe in which a criminal prosecution must be initiated.<sup>13</sup> The SOL in effect at the time a crime is committed controls.<sup>14</sup> In general, time is calculated from the day after a person commits an offense, and the filing of a charging document such as an indictment or information initiates the prosecution for the purpose of satisfying the time limitations.<sup>15</sup> Regardless of whether a charging document is filed, the time limitation does not run during any time an offender is continuously absent from the state or otherwise undiscoverable because he or she lacks a reasonably ascertainable home address or place of employment; however, an extension under this scenario may not exceed the normal time limitation by more than three years.<sup>16</sup>

Capital felonies,<sup>17</sup> life felonies,<sup>18</sup> and felonies resulting in a death are not subject to time constraints, and the state may bring charges at any time.<sup>19</sup> The standard time limitations for other crimes are:<sup>20</sup>

- Four years for a first-degree felony.
- Three years for a second or third-degree felony.
- Two years for a first-degree misdemeanor.
- One year for a second-degree misdemeanor.

## [Restoration of Voting Rights](#)

[Article VI, section 4 of the Florida Constitution](#) prohibits a person who has been convicted of a felony or adjudicated mentally incompetent from qualifying to vote or hold office until his or her civil rights have been restored or his or her disability has been removed. Generally, such a disqualification from voting arising from a felony conviction will terminate and voting rights will be restored when a person completes all terms of his or her sentence, including parole or probation.<sup>21</sup> However, a person who is convicted of murder or a felony sexual offense or who has not completed all terms of his or her sentence cannot have his or her voting rights restored until his or her civil rights have been restored.<sup>22</sup>

A “felony sexual offense” means any of the following:

- Any felony offense that serves as a predicate to registration as a sexual offender in accordance with [s. 943.0435, F.S.](#);
- Sexual misconduct by a psychotherapist;<sup>23</sup>
- *A second or subsequent offense of sexual cyberharassment*;<sup>24</sup>
- Female genital mutilation;<sup>25</sup>
- A felony offense related to transmission of a sexually transmissible disease;<sup>26</sup>
- A felony offense against a student by an authority figure;<sup>27</sup>
- Incest;<sup>28</sup>
- A felony offense involving the sale or distribution of harmful materials to minors or the use of a minor in the production of material harmful to minors;<sup>29</sup>
- Abuse of a dead human body;<sup>30</sup>

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<sup>13</sup> S. [775.15, F.S.](#)

<sup>14</sup> *Beyer v. State*, 76 So. 3d 1132, 1135 (Fla. 4th DCA 2012).

<sup>15</sup> S. [775.15\(3\) and \(4\), F.S.](#)

<sup>16</sup> S. [775.15\(5\), F.S.](#)

<sup>17</sup> S. [775.082, F.S.](#)

<sup>18</sup> *Id.*

<sup>19</sup> S. [775.15\(1\), F.S.](#)

<sup>20</sup> S. [775.15\(2\), F.S.](#)

<sup>21</sup> [Art. VI, s. 4\(a\), Fla. Const.](#); S. [98.0751\(1\), F.S.](#)

<sup>22</sup> [Art. VI, s. 4\(b\), Fla. Const.](#); S. [98.0751\(1\), F.S.](#)

<sup>23</sup> S. [491.0112, F.S.](#)

<sup>24</sup> S. [784.049\(3\)\(b\), F.S.](#)

<sup>25</sup> S. [794.08, F.S.](#)

<sup>26</sup> S. [796.08, F.S.](#)

<sup>27</sup> S. [800.101, F.S.](#)

<sup>28</sup> S. [826.04, F.S.](#)

<sup>29</sup> S. [847.012, F.S.](#)

<sup>30</sup> S. [872.06\(2\), F.S.](#)

- Sexual misconduct between an employee or volunteer of the Department of Corrections (DOC) and an inmate or offender supervised by the DOC;<sup>31</sup>
- Sexual misconduct between a detention facility employee and an inmate;<sup>32</sup> or
- Any similar offense committed in another jurisdiction which would be an offense listed above if it had been committed in violation of the laws of this state.<sup>33</sup>

## BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Criminal Justice Subcommittee</a>	16 Y, 0 N, As CS	4/1/2025	Hall	Leshko

THE CHANGES ADOPTED BY THE COMMITTEE:

- Expanded the current definition of “sexually explicit image” to include images that depict the display of semen or vaginal secretion on a person rather than creating a new definition for “intimate image.”
- Removed a new offense prohibiting a person from committing sexual cyberharassment with the intent to cause physical, mental, economic, or reputational harm, as this conduct is already captured under the current prohibitions on sexual cyberharassment by requiring the dissemination or publishing of images to be done maliciously.
- Made technical changes.

[Judiciary Committee](#)

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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<sup>31</sup> S. [944.35\(3\)\(b\)2., F.S.](#)

<sup>32</sup> S. [951.221\(1\), F.S.](#)

<sup>33</sup> S. [98.0751\(2\)\(b\), F.S.](#)