

1 A bill to be entitled
 2 An act relating to sexual cyberharassment; amending s.
 3 784.049, F.S.; revising legislative findings;
 4 providing and revising definitions; revising
 5 requirements for an enhanced penalty for a second or
 6 subsequent conviction; providing construction;
 7 prohibiting violations with specified intent;
 8 providing criminal penalties; providing statute of
 9 limitations for prosecution; providing for award of
 10 punitive damages in civil actions; amending s.
 11 98.0751, F.S.; revising the definition of "felony
 12 sexual offense" for purposes of voting rights
 13 restoration to include new offenses created in this
 14 act; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 **Section 1. Section 784.049, Florida Statutes, is amended**
 19 **to read:**

20 784.049 Sexual cyberharassment.—
 21 (1) The Legislature finds that:
 22 (a) A person depicted in a sexually explicit image taken
 23 with the person's consent may retain a reasonable expectation
 24 that the image will remain private despite sharing the image
 25 with another person, ~~such as an intimate partner.~~

CODING: Words **stricken** are deletions; words **underlined** are additions.

26 (b) It is becoming a common practice for persons to
27 publish a sexually explicit image of another to Internet
28 websites or to disseminate such an image through electronic
29 means without the depicted person's consent, contrary to the
30 depicted person's reasonable expectation of privacy, ~~for no~~
31 ~~legitimate purpose, with the intent of causing substantial~~
32 ~~emotional distress to the depicted person.~~

33 (c) When such images are published on Internet websites,
34 the images are able to be viewed indefinitely by persons
35 worldwide and are able to be easily reproduced and shared.

36 (d) The publication or dissemination of such images
37 through the use of Internet websites or electronic means creates
38 a permanent record of the depicted person's private nudity so as
39 to expose the genitals, pubic area, buttocks, or female breast
40 or depicts private sexually explicit conduct.

41 (e) The existence of such images on Internet websites or
42 the dissemination of such images without the consent of all
43 parties depicted in the images causes those depicted in such
44 images significant psychological harm.

45 (f) Safeguarding the psychological well-being and privacy
46 interests of persons depicted in such images is compelling.

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

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

51 (b) "Intimate image" means any still or videographic image
 52 that depicts:

53 1. Wholly or partially uncovered genitals, pubic area,
 54 anus, or post-pubescent female nipple or areola of a person;

55 2. The display or transfer of semen or vaginal secretion;

56 or

57 3. Sexually explicit conduct.

58 (c)-(b) "Personal identification information" means any
 59 information that identifies a person ~~an individual~~, and
 60 includes, but is not limited to, any name, postal or electronic
 61 mail address, telephone number, social security number, date of
 62 birth, ~~or~~ any unique physical representation, or any image from
 63 which a person's identity could be reasonably determined.

64 (d)-(e) "Sexually cyberharass" means to intentionally
 65 publish to an Internet website or disseminate through electronic
 66 means to another person a sexually explicit image of a person
 67 that contains or conveys the personal identification information
 68 of the depicted person without the depicted person's consent,
 69 contrary to the depicted person's reasonable expectation that
 70 the image would remain private. The personal identifying
 71 information does not need to be conveyed in the image or post
 72 itself if the information is reasonably temporally connected to
 73 the image or post, ~~for no legitimate purpose, with the intent of~~
 74 ~~causing substantial emotional distress to the depicted person.~~
 75 Evidence that the depicted person sent a sexually explicit image

76 to another person does not, on its own, remove his or her
77 reasonable expectation of privacy for that image.

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

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

85 (b) A person who has one prior conviction for sexual
86 cyberharassment and ~~who~~ commits a second or subsequent sexual
87 cyberharassment commits a felony of the third degree, punishable
88 as provided in s. 775.082, s. 775.083, or s. 775.084. A court's
89 discretion to withhold adjudication is not affected by a prior
90 conviction under this subsection.

91 (4) A person who violates this section with the intent to
92 cause physical, mental, economic, or reputational harm to a
93 person portrayed in the image, or for the purpose of profit or
94 pecuniary gain, commits:

95 (a) A felony in the third degree, punishable as provided
96 in s. 775.082, s. 775.083, or s. 775.084; or

97 (b) For a second or subsequent violation of this
98 subsection a felony of the second degree punishable as provided
99 in s. 775.082, s. 775.083, or s. 775.084. A court's discretion
100 to withhold adjudication not affected by a prior conviction

101 under this subsection.

102 (5)~~(4)~~(a) A law enforcement officer may arrest, without a
103 warrant, any person that he or she has probable cause to believe
104 has violated this section.

105 (b) Upon proper affidavits being made, a search warrant
106 may be issued to further investigate violations of this section,
107 including warrants issued to search a private dwelling.

108 (6) Prosecution for a violation of this section must be
109 commenced:

110 (a) For a misdemeanor, within 5 years after the commission
111 of the offense or within 3 years after the date the victim
112 discovers the offense or, by the exercise of due diligence,
113 reasonably should have discovered the offense, whichever is
114 later; or

115 (b) For a felony, within 7 years after the commission of
116 the offense or within 3 years after the date the victim
117 discovers the offense or, by the exercise of due diligence,
118 reasonably should have discovered the offense, whichever is
119 later.

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

124 (a) Injunctive relief.

125 (b) Monetary damages to include \$10,000 or actual damages

126 incurred as a result of a violation of this section, whichever
 127 is greater.

128 (c) Punitive damages.

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

130 (8)~~(6)~~ The criminal and civil penalties of this section do
 131 not apply to:

132 (a) A provider of an interactive computer service as
 133 defined in 47 U.S.C. s. 230(f), information service as defined
 134 in 47 U.S.C. s. 153, or communications service as defined in s.
 135 202.11, that provides the transmission, storage, or caching of
 136 electronic communications or messages of others; other related
 137 telecommunications or commercial mobile radio service; or
 138 content provided by another person; or

139 (b) A law enforcement officer, as defined in s. 943.10, or
 140 any local, state, federal, or military law enforcement agency,
 141 that publishes a sexually explicit image in connection with the
 142 performance of his or her duties as a law enforcement officer,
 143 or law enforcement agency.

144 (9)~~(7)~~ A violation of this section is committed within
 145 this state if any conduct that is an element of the offense, or
 146 any harm to the depicted person resulting from the offense,
 147 occurs within this state.

148 **Section 2. Paragraph (b) of subsection (2) of section**
 149 **98.0751, Florida Statutes, is amended to read:**

150 98.0751 Restoration of voting rights; termination of

151 | ineligibility subsequent to a felony conviction.—

152 | (2) For purposes of this section, the term:

153 | (b) "Felony sexual offense" means any of the following:

154 | 1. Any felony offense that serves as a predicate to
155 | registration as a sexual offender in accordance with s.

156 | 943.0435;

157 | 2. Section 491.0112;

158 | 3. Section 784.049(3) (b) or (4);

159 | 4. Section 794.08;

160 | 5. Section 796.08;

161 | 6. Section 800.101;

162 | 7. Section 826.04;

163 | 8. Section 847.012;

164 | 9. Section 872.06(2);

165 | 10. Section 944.35(3) (b) 2.;

166 | 11. Section 951.221(1); or

167 | 12. Any similar offense committed in another jurisdiction
168 | which would be an offense listed in this paragraph if it had
169 | been committed in violation of the laws of this state.

170 | **Section 3.** This act shall take effect October 1, 2025.