

CS/CS/HB 75

2011

1 A bill to be entitled

2 An act relating to the offense of sexting; providing that
3 a minor commits the offense of sexting if he or she
4 knowingly uses a computer, or any other device capable of
5 electronic data transmission or distribution, to transmit
6 or distribute to another minor any photograph or video of
7 any person which depicts nudity and is harmful to minors;
8 providing noncriminal and criminal penalties; providing
9 that the transmission or distribution of multiple
10 photographs or videos is a single offense if the
11 transmission occurs within a 24-hour period; providing
12 that the act does not prohibit prosecution of a minor for
13 conduct relating to material that includes the depiction
14 of sexual conduct or sexual excitement or for stalking;
15 defining the term "found to have committed"; providing an
16 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. Sexting; prohibited acts; penalties.-

21 (1) A minor commits the offense of sexting if he or she
22 knowingly uses a computer, or any other device capable of
23 electronic data transmission or distribution, to transmit or
24 distribute to another minor any photograph or video of any
25 person which depicts nudity, as defined in s. 847.001(9),
26 Florida Statutes, and is harmful to minors, as defined in s.
27 847.001(6), Florida Statutes. The transmission or distribution
28 of multiple photographs or videos is a single offense if the

29 photographs or videos were transmitted or distributed within the
30 same 24-hour period.

31 (2) A minor who violates subsection (1):

32 (a) Commits a noncriminal violation for a first violation,
33 punishable by 8 hours of community service or, if ordered by the
34 court in lieu of community service, a \$60 fine. The court may
35 also order the minor to participate in suitable training or
36 instruction in lieu of, or in addition to, community service or
37 a fine.

38 (b) Commits a misdemeanor of the first degree for a
39 violation that occurs after being found to have committed a
40 noncriminal violation for sexting, punishable as provided in s.
41 775.082 or s. 775.083, Florida Statutes.

42 (c) Commits a felony of the third degree for a violation
43 that occurs after being found to have committed a misdemeanor of
44 the first degree for sexting, punishable as provided in s.
45 775.082, s. 775.083, or s. 775.084, Florida Statutes.

46 (3) This section does not prohibit the prosecution of a
47 minor for a violation of any law of this state if the photograph
48 or video that depicts nudity also includes the depiction of
49 sexual conduct or sexual excitement, and does not prohibit the
50 prosecution of a minor for stalking under s. 784.048, Florida
51 Statutes.

52 (4) As used in this section, the term "found to have
53 committed" means a determination of guilt that is the result of
54 a plea or trial, or a finding of delinquency that is the result
55 of a plea or an adjudicatory hearing, regardless of whether
56 adjudication is withheld.

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57 Section 2. This act shall take effect October 1, 2011.