A bill to be entitled
An act relating to sexting; creating s. 847.0146, F.S.; providing that a minor commits the offense of sexting if he or she knowingly uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another person any photograph or video of himself or herself which depicts nudity and is harmful to minors, or knowingly possesses such a photograph or video that was transmitted or distributed to the minor from another minor; providing noncriminal and criminal penalties; providing that the transmission or distribution of multiple photographs or videos is a single offense if such photographs and videos were transmitted or distributed in the same 24-hour period; providing that the possession of multiple photographs or videos that were transmitted or distributed by a minor is a single offense if such photographs and videos were transmitted or distributed by the minor in the same 24-hour period; providing that the act does not prohibit prosecution of a minor for conduct relating to material that includes the depiction of sexual conduct or sexual excitement or for stalking; providing an effective date.

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

Section 1. Section 847.0146, Florida Statutes, is created to read:

847.0146 Sexting; prohibited acts; penalties.
(1) A minor commits the offense of sexting if he or she knowingly:
   (a) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another person any photograph or video of himself or herself which depicts nudity and is harmful to minors; or
   (b) Possesses a photograph or video that was transmitted or distributed by another minor as described in paragraph (a).

(2) A minor who violates subsection (1):
   (a) Commits a noncriminal violation for a first offense, punishable by 8 hours of community service and a $25 fine. The court may order the minor to participate in suitable training or instruction in lieu of community service.
   (b) Commits a misdemeanor of the second degree for a second offense, punishable as provided in s. 775.082 or s. 775.083.
   (c) Commits a misdemeanor of the first degree for a third offense, punishable as provided in s. 775.082 or s. 775.083.
   (d) Commits a felony of the third degree for a fourth or subsequent offense, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) For purposes of this section:
   (a) The transmission or distribution of multiple photographs or videos described in paragraph (1)(a) is a single offense if such photographs or videos were transmitted or distributed in the same 24-hour period.
   (b) The possession of multiple photographs or videos that were transmitted or distributed by a minor as described in
paragraph (1)(a) is a single offense if such photographs or
videos were transmitted or distributed by the minor in the same
24-hour period.

(4) This section does not prohibit the prosecution of a
minor for conduct relating to material that includes the
depiction of sexual conduct or sexual excitement and does not
prohibit the prosecution of a minor for stalking under s.
784.048.

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