

HB 75

2011

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

23
24 Be It Enacted by the Legislature of the State of Florida:

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

28 847.0146 Sexting; prohibited acts; penalties.-

29 (1) A minor commits the offense of sexting if he or she
 30 knowingly:

31 (a) Uses a computer, or any other device capable of
 32 electronic data transmission or distribution, to transmit or
 33 distribute to another person any photograph or video of himself
 34 or herself which depicts nudity and is harmful to minors; or

35 (b) Possesses a photograph or video that was transmitted
 36 or distributed by another minor as described in paragraph (a).

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

38 (a) Commits a noncriminal violation for a first offense,
 39 punishable by 8 hours of community service and a \$25 fine. The
 40 court may order the minor to participate in suitable training or
 41 instruction in lieu of community service.

42 (b) Commits a misdemeanor of the second degree for a
 43 second offense, punishable as provided in s. 775.082 or s.
 44 775.083.

45 (c) Commits a misdemeanor of the first degree for a third
 46 offense, punishable as provided in s. 775.082 or s. 775.083.

47 (d) Commits a felony of the third degree for a fourth or
 48 subsequent offense, punishable as provided in s. 775.082, s.
 49 775.083, or s. 775.084.

50 (3) For purposes of this section:

51 (a) The transmission or distribution of multiple
 52 photographs or videos described in paragraph (1)(a) is a single
 53 offense if such photographs or videos were transmitted or
 54 distributed in the same 24-hour period.

55 (b) The possession of multiple photographs or videos that
 56 were transmitted or distributed by a minor as described in

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57 paragraph (1) (a) is a single offense if such photographs or
58 videos were transmitted or distributed by the minor in the same
59 24-hour period.

60 (4) This section does not prohibit the prosecution of a
61 minor for conduct relating to material that includes the
62 depiction of sexual conduct or sexual excitement and does not
63 prohibit the prosecution of a minor for stalking under s.
64 784.048.

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