

By Senator Simmons

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1 A bill to be entitled
2 An act relating to the disclosure of sexually explicit
3 images; creating s. 847.0136, F.S.; providing
4 definitions; prohibiting an individual from
5 electronically disclosing a sexually explicit image of
6 an identifiable person with the intent to harass such
7 person if the individual knows or should have known
8 that such person did not consent to the disclosure;
9 providing criminal penalties; providing for
10 jurisdiction; providing exceptions; exempting
11 providers of specified services; amending s. 921.244,
12 F.S.; requiring a court to order that a person
13 convicted of such offense be prohibited from having
14 contact with the victim; providing criminal penalties
15 for a violation of such order; providing that criminal
16 penalties for certain offenses run consecutively with
17 a sentence imposed for a violation of s. 847.0136,
18 F.S.; reenacting s. 784.048(7), F.S., to incorporate
19 the amendment made to s. 921.244, F.S., in a reference
20 thereto; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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24 Section 1. Section 847.0136, Florida Statutes, is created
25 to read:

26 847.0136 Prohibited electronic disclosure of sexually
27 explicit images; penalties; jurisdiction.-

28 (1) As used in this section, the term:

29 (a) "Disclose" means to publish, post, distribute, exhibit,

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30 advertise, offer, or transfer, or cause to be published, posted,
31 distributed, exhibited, advertised, offered, or transferred.

32 (b) "Harass" means to engage in conduct directed at a
33 specific person which causes substantial emotional distress to
34 that person and serves no legitimate purpose.

35 (c) "Identifiable person" means an individual in a sexually
36 explicit image who can be identified through:

37 1. Recognition of his or her face as depicted in the
38 sexually explicit image; or

39 2. Personal identification information that accompanies or
40 is associated with the sexually explicit image.

41 (d) "Personal identification information" has the same
42 meaning as provided in s. 817.568.

43 (e) "Sexually explicit image" means a private photograph,
44 film, videotape, recording, or other reproduction of:

45 1. Nudity; or

46 2. Sexual intercourse, including, but not limited to, oral
47 sexual intercourse or anal sexual intercourse.

48 (2) An individual may not intentionally and knowingly
49 disclose a sexually explicit image of an identifiable person or
50 that contains descriptive information in a form that conveys the
51 personal identification information of the person to a social
52 networking service or a website, or by means of any other
53 electronic medium, with the intent to harass such person, if the
54 individual knows or should have known that the person depicted
55 in the sexually explicit image did not consent to such
56 disclosure.

57 (3) (a) Except as provided in paragraph (b), an individual
58 who violates this section commits a felony of the third degree,

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59 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

60 (b) An individual who is 18 years of age or older at the
61 time he or she violates this section commits a felony of the
62 second degree, punishable as provided in s. 775.082, s. 775.083,
63 or s. 775.084, if the violation involves a sexually explicit
64 image of an individual who was younger than 16 years of age at
65 the time the sexually explicit image was created.

66 (4) A violation of this section is committed within this
67 state if any conduct that is an element of the offense described
68 in subsection (2), or any harm to the identifiable person
69 resulting from the offense described in subsection (2), occurs
70 within this state.

71 (5) This section does not apply to the disclosure of a
72 sexually explicit image for:

73 (a) The reporting, investigation, and prosecution of an
74 alleged crime for law enforcement purposes.

75 (b) Voluntary and consensual purposes in public or
76 commercial settings.

77 (6) This section does not impose liability on a provider of
78 an interactive computer service as defined in 47 U.S.C. s.
79 230(f), an information service as defined in 47 U.S.C. s. 153,
80 or communications services as defined in s. 202.11, for:

81 (a) The transmission, storage, or caching of electronic
82 communications or messages of other persons;

83 (b) Other related telecommunications or commercial mobile
84 radio service; or

85 (c) Content provided by another person.

86 Section 2. Section 921.244, Florida Statutes, is amended to
87 read:

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88 921.244 Order of no contact; penalties.—

89 (1) At the time of sentencing an offender convicted of a
90 violation of s. 794.011, s. 800.04, s. 847.0135(5), s. 847.0136,
91 or any offense in s. 775.084(1)(b)1.a.-o., the court shall order
92 that the offender be prohibited from having any contact with the
93 victim, directly or indirectly, including through a third
94 person, for the duration of the sentence imposed. The court may
95 reconsider the order upon the request of the victim if the
96 request is made at any time after the victim has attained 18
97 years of age. In considering the request, the court shall
98 conduct an evidentiary hearing to determine whether a change of
99 circumstances has occurred which warrants a change in the court
100 order prohibiting contact and whether it is in the best interest
101 of the victim that the court order be modified or rescinded.

102 (2) An ~~Any~~ offender who violates a court order issued under
103 this section commits a felony of the third degree, punishable as
104 provided in s. 775.082, s. 775.083, or s. 775.084.

105 (3) The punishment imposed under this section shall run
106 consecutive to any former sentence imposed for a conviction for
107 any offense under s. 794.011, s. 800.04, s. 847.0135(5), s.
108 847.0136, or any offense in s. 775.084(1)(b)1.a.-o.

109 Section 3. Subsection (7) of s. 784.048, Florida Statutes,
110 is reenacted for the purpose of incorporating the amendment made
111 by this act to s. 921.244, Florida Statutes, in a reference
112 thereto.

113 Section 4. This act shall take effect October 1, 2015.