

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 that a minor commits the offense of sexting if
 9 he or she knowingly possesses a photograph or video of any
 10 person that was transmitted or distributed by another
 11 minor which depicts nudity and is harmful to minors;
 12 providing an exception; providing noncriminal and criminal
 13 penalties; providing that the transmission, distribution,
 14 or possession of multiple photographs or videos is a
 15 single offense if the transmission occurs within a 24-hour
 16 period; providing that the act does not prohibit
 17 prosecution of a minor for conduct relating to material
 18 that includes the depiction of sexual conduct or sexual
 19 excitement or for stalking; defining the term "found to
 20 have committed"; providing an effective date.

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

23
 24 Section 1. Sexting; prohibited acts; penalties.—
 25 (1) A minor commits the offense of sexting if he or she
 26 knowingly:
 27 (a) Uses a computer, or any other device capable of
 28 electronic data transmission or distribution, to transmit or

29 distribute to another minor any photograph or video of any
30 person which depicts nudity, as defined in s. 847.001(9),
31 Florida Statutes, and is harmful to minors, as defined in s.
32 847.001(6), Florida Statutes.

33 (b) Possesses a photograph or video of any person that was
34 transmitted or distributed by another minor which depicts
35 nudity, as defined in s. 847.001(9), Florida Statutes, and is
36 harmful to minors, as defined in s. 847.001(6), Florida
37 Statutes. A minor does not violate paragraph this paragraph if
38 all of the following apply:

39 1. The minor did not solicit the photograph or video.

40 2. The minor took reasonable steps to report the
41 photograph or video to the minor's legal guardian or to a school
42 or law enforcement official.

43 3. The minor did not transmit or distribute the photograph
44 or video to a third party.

45 (2)(a) The transmission or distribution of multiple
46 photographs or videos prohibited by paragraph (1)(a) is a single
47 offense if the photographs or videos were transmitted or
48 distributed within the same 24-hour period.

49 (b) The possession of multiple photographs or videos that
50 were transmitted or distributed by a minor prohibited by
51 paragraph (1)(b) is a single offense if the photographs or
52 videos were transmitted or distributed by a minor in the same
53 24-hour period.

54 (3) A minor who violates subsection (1):

55 (a) Commits a noncriminal violation for a first violation,
56 punishable by 8 hours of community service or, if ordered by the

57 court in lieu of community service, a \$60 fine. The court may
58 also order the minor to participate in suitable training or
59 instruction in lieu of, or in addition to, community service or
60 a fine.

61 (b) Commits a misdemeanor of the first degree for a
62 violation that occurs after being found to have committed a
63 noncriminal violation for sexting, punishable as provided in s.
64 775.082 or s. 775.083, Florida Statutes.

65 (c) Commits a felony of the third degree for a violation
66 that occurs after being found to have committed a misdemeanor of
67 the first degree for sexting, punishable as provided in s.
68 775.082, s. 775.083, or s. 775.084, Florida Statutes.

69 (4) This section does not prohibit the prosecution of a
70 minor for a violation of any law of this state if the photograph
71 or video that depicts nudity also includes the depiction of
72 sexual conduct or sexual excitement, and does not prohibit the
73 prosecution of a minor for stalking under s. 784.048, Florida
74 Statutes.

75 (5) As used in this section, the term "found to have
76 committed" means a determination of guilt that is the result of
77 a plea or trial, or a finding of delinquency that is the result
78 of a plea or an adjudicatory hearing, regardless of whether
79 adjudication is withheld.

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