

By Senator Abruzzo

25-00323A-15

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1                   A bill to be entitled  
2           An act relating to sexting; amending s. 847.0141,  
3           F.S.; removing the court's discretion to impose a  
4           specified penalty for a first violation of sexting;  
5           requiring a minor cited for a first violation to sign  
6           and accept a citation to appear before juvenile court  
7           or, in lieu of appearing in court, to complete  
8           community service work, pay a civil penalty, or  
9           participate in a cyber-safety program within a certain  
10          period of time, if such program is locally available;  
11          requiring the citation to be in a form prescribed by  
12          the issuing law enforcement agency; requiring such  
13          citation to include certain information; authorizing a  
14          court to order certain penalties under certain  
15          circumstances; authorizing a court to order specified  
16          additional penalties in certain circumstances;  
17          prohibiting the court from imposing incarceration;  
18          specifying that all court records and any information  
19          obtained or produced are confidential; providing  
20          retroactive application of confidentiality provisions  
21          for certain violations; conforming provisions to  
22          changes made by the act; requiring that a specified  
23          percentage of civil penalties received by a juvenile  
24          court be remitted by the clerk of court to the county  
25          commission to provide cyber-safety training for  
26          minors; requiring that the remaining percentage remain  
27          with the clerk of the court to cover administrative  
28          costs; amending s. 985.0301, F.S.; creating exclusive  
29          original jurisdiction in the circuit court when a

25-00323A-15

20151112\_\_

30 child is alleged to have committed a noncriminal  
31 violation that is assigned to juvenile court;  
32 providing an effective date.  
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34 Be It Enacted by the Legislature of the State of Florida:  
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36 Section 1. Subsections (3) and (5) of section 847.0141,  
37 Florida Statutes, are amended, and subsection (6) is added to  
38 that section, to read:

39 847.0141 Sexting; prohibited acts; penalties.—

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

41 (a) Commits a noncriminal violation for a first violation,  
42 ~~punishable by 8 hours of community service or, if ordered by the~~  
43 ~~court in lieu of community service, a \$60 fine. The court may~~  
44 ~~also order the minor to participate in suitable training or~~  
45 ~~instruction in lieu of, or in addition to, community service or~~  
46 ~~a fine. The minor must sign and accept a citation indicating a~~  
47 promise to appear before the juvenile court. In lieu of  
48 appearing in court, the minor may complete 8 hours of community  
49 service work, pay a \$60 civil penalty, or participate in a  
50 cyber-safety program, if such a program is locally available.  
51 The minor must satisfy any penalty within 30 days after receipt  
52 of the citation.

53 1. A citation issued to a minor under this subsection must  
54 be in a form prescribed by the issuing law enforcement agency,  
55 must be signed by the minor, and must contain all of the  
56 following:

57 a. The date and time of issuance.

58 b. The name and address of the minor to whom the citation

25-00323A-15

20151112\_\_

59 is issued.

60 c. A thumbprint of the minor to whom the citation is  
61 issued.

62 d. Identification of the noncriminal violation and the time  
63 it was committed.

64 e. The facts constituting reasonable cause.

65 f. The specific section of law violated.

66 g. The name and authority of the citing officer.

67 h. The procedures that the minor must follow to contest the  
68 citation, perform the required community service, pay the civil  
69 penalty, and participate in a cyber-safety program.

70 2. If the citation is contested and the court determines  
71 that the minor committed a noncriminal violation under this  
72 section, the court may order the minor to perform 8 hours of  
73 community service, pay a \$60 civil penalty, or participate in a  
74 cyber-safety program, or any combination thereof.

75 3. A minor who fails to comply with the citation waives his  
76 or her right to contest it, and the court may impose any of the  
77 penalties identified in subparagraph 2. or issue an order to  
78 show cause. Upon a finding of contempt, the court may impose  
79 additional age-appropriate penalties, which may include issuance  
80 of an order to the Department of Highway Safety and Motor  
81 Vehicles to withhold issuance of, or suspend the driver license  
82 or driving privilege of, the minor for 30 consecutive days.  
83 However, the court may not impose incarceration.

84 4. All court records and information obtained or produced  
85 under this paragraph shall be afforded the same level of  
86 confidentiality provided under ss. 985.04 and 985.045. All  
87 noncriminal violations for sexting that occurred on or after

25-00323A-15

20151112\_\_

88 October 1, 2011, are considered confidential.

89 (b) Commits a misdemeanor of the first degree for a  
 90 violation that occurs after the minor has been ~~being~~ found to  
 91 have committed a noncriminal violation for sexting or has  
 92 satisfied the penalty imposed in lieu of a court appearance as  
 93 provided in paragraph (a), punishable as provided in s. 775.082  
 94 or s. 775.083.

95 (c) Commits a felony of the third degree for a violation  
 96 that occurs after the minor has been ~~being~~ found to have  
 97 committed a misdemeanor of the first degree for sexting,  
 98 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

99 (5) As used in this section, the term "found to have  
 100 committed" means a determination of guilt that is the result of  
 101 a plea or trial, or a finding of delinquency that is the result  
 102 of a plea or an adjudicatory hearing, regardless of whether  
 103 adjudication is withheld.

104 (6) Eighty percent of all civil penalties received by a  
 105 juvenile court pursuant to this section shall be remitted by the  
 106 clerk of the court to the county commission to provide training  
 107 on cyber safety for minors. The remaining 20 percent shall  
 108 remain with the clerk of the court to defray administrative  
 109 costs.

110 Section 2. Subsection (1) of section 985.0301, Florida  
 111 Statutes, is amended to read:

112 985.0301 Jurisdiction.—

113 (1) The circuit court has exclusive original jurisdiction  
 114 of proceedings in which a child is alleged to have committed:

115 (a) ~~to have committed~~ A delinquent act or violation of law.

116 (b) A noncriminal violation that has been assigned to

25-00323A-15

20151112\_\_

117 juvenile court by law.

118 Section 3. This act shall take effect October 1, 2015.