

By the Committee on Criminal Justice; and Senator Abruzzo

591-03140-15

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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          authorizing a law enforcement officer to issue a civil  
18          citation in lieu of criminal penalties; prohibiting  
19          the court from imposing incarceration; specifying that  
20          all court records and any information obtained or  
21          produced are confidential; providing retroactive  
22          application of confidentiality provisions for certain  
23          violations; conforming provisions to changes made by  
24          the act; requiring that a specified percentage of  
25          civil penalties received by a juvenile court be  
26          remitted by the clerk of court to the county  
27          commission to provide cyber-safety training for  
28          minors; requiring that the remaining percentage remain  
29          with the clerk of the court to cover administrative

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30 costs; amending s. 985.0301, F.S.; creating exclusive  
31 original jurisdiction in the circuit court when a  
32 child is alleged to have committed a noncriminal  
33 violation that is assigned to juvenile court;  
34 providing an effective date.

35  
36 Be It Enacted by the Legislature of the State of Florida:

37  
38 Section 1. Subsections (3) and (5) of section 847.0141,  
39 Florida Statutes, are amended, and subsection (6) is added to  
40 that section, to read:

41 847.0141 Sexting; prohibited acts; penalties.—

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

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

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

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59 a. The date and time of issuance.

60 b. The name and address of the minor to whom the citation  
61 is issued.

62 c. A thumbprint of the minor to whom the citation is  
63 issued.

64 d. Identification of the noncriminal violation and the time  
65 it was committed.

66 e. The facts constituting reasonable cause.

67 f. The specific section of law violated.

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

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

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

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

86 4. All court records and information obtained or produced  
87 under this paragraph shall be afforded the same level of

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88 confidentiality provided under ss. 985.04 and 985.045. All  
89 noncriminal violations for sexting that occurred on or after  
90 October 1, 2011, are considered confidential.

91 (b) Commits a misdemeanor of the first degree for a  
92 violation that occurs after the minor has been ~~being~~ found to  
93 have committed a noncriminal violation for sexting or has  
94 satisfied the penalty imposed in lieu of a court appearance as  
95 provided in paragraph (a), punishable as provided in s. 775.082  
96 or s. 775.083, unless a law enforcement officer elects to issue  
97 a civil citation as provided in paragraph (3) (a).

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

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

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

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

115 985.0301 Jurisdiction.—

116 (1) The circuit court has exclusive original jurisdiction

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117 of proceedings in which a child is alleged to have committed:  
118 (a) to have committed A delinquent act or violation of law.  
119 (b) A noncriminal violation that has been assigned to  
120 juvenile court by law.  
121 Section 3. This act shall take effect October 1, 2015.