By Senator Abruzzo

	25-00336-15 20151132
1	A bill to be entitled
2	An act relating to transmission of pornography;
3	amending s. 847.0137, F.S.; providing that each act of
4	sending or delivering pornography is a separate
5	offense; reenacting ss. 775.0847(2) and 856.022(1),
6	F.S., relating to reclassification of certain offenses
7	and loitering or prowling by certain offenders,
8	respectively, to incorporate the amendment to s.
9	847.0137, F.S., in references thereto; providing an
10	effective date.
11	
12	Be It Enacted by the Legislature of the State of Florida:
13	
14	Section 1. Section 847.0137, Florida Statutes, is amended
15	to read:
16	847.0137 Transmission of pornography by electronic device
17	or equipment prohibited; penalties
18	(1) For purposes of this section, the term:
19	(a) "Minor" means any person less than 18 years of age.
20	(b) "Transmit" means the act of sending and causing to be
21	delivered <u>an</u> any image, information, or data from one or more
22	persons or places to one or more other persons or places over or
23	through any medium, including the Internet, by use of any
24	electronic equipment or device.
25	(2) Notwithstanding ss. 847.012 and 847.0133, any person in
26	this state who knew or reasonably should have known that he or
27	she was transmitting child pornography, as defined in s.
28	847.001, to another person in this state or in another
29	jurisdiction commits a felony of the third degree, punishable as
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25-00336-15 20151132 30 provided in s. 775.082, s. 775.083, or s. 775.084. 31 (3) Notwithstanding ss. 847.012 and 847.0133, any person in 32 any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child 33 34 pornography, as defined in s. 847.001, to any person in this 35 state commits a felony of the third degree, punishable as 36 provided in s. 775.082, s. 775.083, or s. 775.084. 37 (4) This section may shall not be construed to prohibit prosecution of a person in this state or another jurisdiction 38 39 for a violation of any law of this state, including a law 40 providing for greater penalties than prescribed in this section, for the transmission of child pornography, as defined in s. 41 42 847.001, to any person in this state. (5) A person is subject to prosecution in this state 43 44 pursuant to chapter 910 for any act or conduct proscribed by this section, including a person in a jurisdiction other than 45 46 this state, if the act or conduct violates subsection (3). 47 (6) For purposes of this section, each act of sending or 48 causing to be delivered an image, information, or data is a 49 separate offense. 50 51 The provisions of This section does do not apply to 52 subscription-based transmissions such as list servers. 53 Section 2. For the purpose of incorporating the amendment made by this act to section 847.0137, Florida Statutes, in a 54 reference thereto, subsection (2) of section 775.0847, Florida 55 56 Statutes, is reenacted to read: 57 775.0847 Possession or promotion of certain images of child 58 pornography; reclassification.-

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 (2) A violation of s. 827.071, s. 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to the next higher degree as provided in subsection (3) if: (a) The offender possesses 10 or more images of any form of child pornography regardless of content; and (b) The content of at least one image contains one or more of the following: 1. A child who is younger than the age of 5. 2. Sadomasochistic abuse involving a child. 3. Sexual battery involving a child. 4. Sexual bestiality involving a child. 5. Any movie involving a child, regardless of length and regardless of whether the movie contains sound. Section 3. For the purpose of incorporating the amendment made by this act to section 847.0137, Florida Statutes, in a reference thereto, subsection (1) of section 856.022, Florida Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 		25-00336-15 20151132
<pre>61 provided in subsection (3) if: 62 (a) The offender possesses 10 or more images of any form of 63 child pornography regardless of content; and 64 (b) The content of at least one image contains one or more 65 of the following: 66 1. A child who is younger than the age of 5. 67 2. Sadomasochistic abuse involving a child. 68 3. Sexual battery involving a child. 69 4. Sexual bestiality involving a child. 70 5. Any movie involving a child, regardless of length and 71 regardless of whether the movie contains sound. 72 Section 3. For the purpose of incorporating the amendment 73 made by this act to section 847.0137, Florida Statutes, in a 74 reference thereto, subsection (1) of section 856.022, Florida 75 Statutes, is reenacted to read: 76 856.022 Loitering or prowling by certain offenders in close 77 proximity to children; penalty 78 (1) Except as provided in subsection (2), this section 79 applies to a person convicted of committing, or attempting, 80 soliciting, or conspiring to commit, any of the criminal 81 offenses proscribed in the following statutes in this state or 82 similar offenses in another jurisdiction against a victim who 83 was under 18 years of age at the time of the offense: s. 787.01, 84 s. 787.02, or s. 787.025(2) (c), where the victim is a minor and 85 the offender was not the victim's parent or guardiar; s. 787.06(3) (g); s. 794.011, excluding s. 794.011(10); s. 794.05;</pre>	59	(2) A violation of s. 827.071, s. 847.0135, s. 847.0137, or
 (a) The offender possesses 10 or more images of any form of child pornography regardless of content; and (b) The content of at least one image contains one or more of the following: A child who is younger than the age of 5. Sadomasochistic abuse involving a child. Sexual battery involving a child. A sexual bestiality involving a child. Any movie involving a child, regardless of length and regardless of whether the movie contains sound. Section 3. For the purpose of incorporating the amendment made by this act to section 847.0137, Florida Statutes, in a reference thereto, subsection (1) of section 856.022, Florida Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2) (c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3) (g); s. 794.011, excluding s. 794.011(10); s. 794.05; 	60	s. 847.0138 shall be reclassified to the next higher degree as
 child pornography regardless of content; and (b) The content of at least one image contains one or more of the following: A child who is younger than the age of 5. Sadomasochistic abuse involving a child. Sexual battery involving a child. A sexual bestiality involving a child. Any movie involving a child, regardless of length and regardless of whether the movie contains sound. Section 3. For the purpose of incorporating the amendment made by this act to section 847.0137, Florida Statutes, in a reference thereto, subsection (1) of section 856.022, Florida Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2) (c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3) (g); s. 794.011, excluding s. 794.011(10); s. 794.05; 	61	provided in subsection (3) if:
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of the following: A child who is younger than the age of 5. Sadomasochistic abuse involving a child. Sexual battery involving a child. A sexual bestiality involving a child. Any movie involving a child, regardless of length and regardless of whether the movie contains sound. Section 3. For the purpose of incorporating the amendment made by this act to section 847.0137, Florida Statutes, in a reference thereto, subsection (1) of section 856.022, Florida Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2) (c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3) (g); s. 794.011, excluding s. 794.011(10); s. 794.05; 	63	child pornography regardless of content; and
 A child who is younger than the age of 5. Sadomasochistic abuse involving a child. Sexual battery involving a child. A sexual bestiality involving a child. Any movie involving a child, regardless of length and regardless of whether the movie contains sound. Section 3. For the purpose of incorporating the amendment made by this act to section 847.0137, Florida Statutes, in a reference thereto, subsection (1) of section 856.022, Florida Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05; 	64	(b) The content of at least one image contains one or more
 2. Sadomasochistic abuse involving a child. 3. Sexual battery involving a child. 4. Sexual bestiality involving a child. 5. Any movie involving a child, regardless of length and regardless of whether the movie contains sound. Section 3. For the purpose of incorporating the amendment made by this act to section 847.0137, Florida Statutes, in a reference thereto, subsection (1) of section 856.022, Florida Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05; 	65	of the following:
 3. Sexual battery involving a child. 4. Sexual bestiality involving a child. 5. Any movie involving a child, regardless of length and regardless of whether the movie contains sound. Section 3. For the purpose of incorporating the amendment made by this act to section 847.0137, Florida Statutes, in a reference thereto, subsection (1) of section 856.022, Florida Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05; 	66	1. A child who is younger than the age of 5.
 4. Sexual bestiality involving a child. 5. Any movie involving a child, regardless of length and regardless of whether the movie contains sound. Section 3. For the purpose of incorporating the amendment made by this act to section 847.0137, Florida Statutes, in a reference thereto, subsection (1) of section 856.022, Florida Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05; 	67	2. Sadomasochistic abuse involving a child.
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 Section 3. For the purpose of incorporating the amendment made by this act to section 847.0137, Florida Statutes, in a reference thereto, subsection (1) of section 856.022, Florida Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, r87.02, or s. 787.025(2)(c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05; 	70	5. Any movie involving a child, regardless of length and
made by this act to section 847.0137, Florida Statutes, in a reference thereto, subsection (1) of section 856.022, Florida Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;	71	regardless of whether the movie contains sound.
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Statutes, is reenacted to read: 856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;	73	made by this act to section 847.0137, Florida Statutes, in a
856.022 Loitering or prowling by certain offenders in close proximity to children; penalty (1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;	74	reference thereto, subsection (1) of section 856.022, Florida
<pre>77 proximity to children; penalty 78 (1) Except as provided in subsection (2), this section 79 applies to a person convicted of committing, or attempting, 80 soliciting, or conspiring to commit, any of the criminal 81 offenses proscribed in the following statutes in this state or 82 similar offenses in another jurisdiction against a victim who 83 was under 18 years of age at the time of the offense: s. 787.01, 84 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and 85 the offender was not the victim's parent or guardian; s. 86 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;</pre>	75	Statutes, is reenacted to read:
(1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;	76	856.022 Loitering or prowling by certain offenders in close
<pre>79 applies to a person convicted of committing, or attempting, 80 soliciting, or conspiring to commit, any of the criminal 81 offenses proscribed in the following statutes in this state or 82 similar offenses in another jurisdiction against a victim who 83 was under 18 years of age at the time of the offense: s. 787.01, 84 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and 85 the offender was not the victim's parent or guardian; s. 86 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;</pre>	77	proximity to children; penalty
<pre>80 soliciting, or conspiring to commit, any of the criminal 81 offenses proscribed in the following statutes in this state or 82 similar offenses in another jurisdiction against a victim who 83 was under 18 years of age at the time of the offense: s. 787.01, 84 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and 85 the offender was not the victim's parent or guardian; s. 86 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;</pre>	78	(1) Except as provided in subsection (2), this section
<pre>81 offenses proscribed in the following statutes in this state or 82 similar offenses in another jurisdiction against a victim who 83 was under 18 years of age at the time of the offense: s. 787.01, 84 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and 85 the offender was not the victim's parent or guardian; s. 86 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;</pre>	79	applies to a person convicted of committing, or attempting,
82 similar offenses in another jurisdiction against a victim who 83 was under 18 years of age at the time of the offense: s. 787.01, 84 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and 85 the offender was not the victim's parent or guardian; s. 86 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;	80	soliciting, or conspiring to commit, any of the criminal
<pre>was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the offender was not the victim's parent or guardian; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;</pre>	81	offenses proscribed in the following statutes in this state or
<pre>84 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and 85 the offender was not the victim's parent or guardian; s. 86 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;</pre>	82	similar offenses in another jurisdiction against a victim who
<pre>85 the offender was not the victim's parent or guardian; s. 86 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;</pre>	83	was under 18 years of age at the time of the offense: s. 787.01,
86 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;	84	s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
	85	the offender was not the victim's parent or guardian; s.
87 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s.	86	787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;
I	87	former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s.

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88	827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
89	847.0137; s. 847.0138; s. 847.0145; s. 985.701(1); or any
90	similar offense committed in this state which has been
91	redesignated from a former statute number to one of those listed
92	in this subsection, if the person has not received a pardon for
93	any felony or similar law of another jurisdiction necessary for
94	the operation of this subsection and a conviction of a felony or
95	similar law of another jurisdiction necessary for the operation
96	of this subsection has not been set aside in any postconviction
97	proceeding.
98	Section 4. This act shall take effect October 1, 2015.

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