

A bill to be entitled

An act relating to the disclosure of sexually explicit images; creating s. 847.0136, F.S.; providing definitions; prohibiting an individual from electronically disclosing a sexually explicit image of an identifiable person with the intent to harass such person if the individual knows or should have known that such person did not consent to the disclosure; providing criminal penalties; providing for jurisdiction; providing exceptions; exempting providers of specified services; amending s. 921.244, F.S.; requiring a court to order that a person convicted of such offense be prohibited from having contact with the victim; providing criminal penalties for a violation of such order; providing that criminal penalties for certain offenses run consecutively with a sentence imposed for a violation of s. 847.0136, F.S.; providing an effective date.

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

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

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

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

27 (a) "Disclose" means to publish, post, distribute,
 28 exhibit, advertise, offer, or transfer, or cause to be
 29 published, posted, distributed, exhibited, advertised, offered,
 30 or transferred.

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

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

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

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

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

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

44 1. Nudity; or

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

47 (2) An individual may not intentionally and knowingly
 48 disclose a sexually explicit image of an identifiable person or
 49 that contains descriptive information in a form that conveys the
 50 personal identification information of the person to a social
 51 networking service or a website, or by means of any other
 52 electronic medium, with the intent to harass such person, if the

53 individual knows or should have known that the person depicted
54 in the sexually explicit image did not consent to such
55 disclosure.

56 (3) (a) Except as provided in paragraph (b), an individual
57 who violates this section commits a felony of the third degree,
58 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

76 (6) This section does not impose liability on a provider
77 of an interactive computer service as defined in 47 U.S.C. s.
78 230(f), an information service as defined in 47 U.S.C. s. 153,

79 or communications services as defined in s. 202.11, for:

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

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

84 (c) Content provided by another person.

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

87 921.244 Order of no contact; penalties.—

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

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

104 (3) The punishment imposed under this section shall run

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105 consecutive to any former sentence imposed for a conviction for
106 any offense under s. 794.011, s. 800.04, s. 847.0135(5), s.
107 847.0136, or any offense in s. 775.084(1)(b)1.a.-o.

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