

1                                   A bill to be entitled  
 2           An act relating to cyberharassment; amending s.  
 3           784.049, F.S.; revising legislative findings; revising  
 4           definitions; providing that sexual cyberharassment  
 5           includes dissemination of an image through electronic  
 6           means other than publication on a website; providing  
 7           an effective date.

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

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 11           Section 1. Section 784.049, Florida Statutes, is amended  
 12           to read:

13           784.049 Sexual cyberharassment.—

14           (1) The Legislature finds that:

15           (a) A person depicted in a sexually explicit image taken  
 16           with the person's consent has a reasonable expectation that the  
 17           image will remain private.

18           (b) It is becoming a common practice for persons to  
 19           publish a sexually explicit image of another to Internet  
 20           websites or to disseminate such an image through electronic  
 21           means without the depicted person's consent, for no legitimate  
 22           purpose, with the intent of causing substantial emotional  
 23           distress to the depicted person.

24           (c) When such images are published on Internet websites or  
 25           disseminated through electronic means, the images ~~they~~ are able

26 | to be viewed indefinitely by persons worldwide and are able to  
27 | be easily reproduced and shared.

28 | (d) The publication or dissemination of such images  
29 | through the use of an Internet websites or electronic means  
30 | creates a permanent record of the depicted person's private  
31 | nudity or private sexually explicit conduct.

32 | (e) The existence of such images on Internet websites or  
33 | the dissemination of such images without the consent of all  
34 | parties depicted in the images causes those depicted in such  
35 | images significant psychological harm.

36 | (f) Safeguarding the psychological well-being of persons  
37 | depicted in such images is compelling.

38 | (2) As used in this section, the term:

39 | (a) "Image" includes, but is not limited to, any  
40 | photograph, picture, motion picture, film, video, or  
41 | representation.

42 | (b) "Personal identification information" means any  
43 | information that identifies an individual, and includes, but is  
44 | not limited to, any name, postal or electronic mail address,  
45 | telephone number, social security number, date of birth, or any  
46 | unique physical representation ~~has the same meaning as provided~~  
47 | ~~in s. 817.568.~~

48 | (c) "Sexually cyberharass" means to publish to an Internet  
49 | website or disseminate through electronic means to another  
50 | person a sexually explicit image of a person that contains or

51 conveys the personal identification information of the depicted  
52 person ~~to an Internet website~~ without the depicted person's  
53 consent, for no legitimate purpose, with the intent of causing  
54 substantial emotional distress to the depicted person.

55 (d) "Sexually explicit image" means any image depicting  
56 nudity, as defined in s. 847.001, or depicting a person engaging  
57 in sexual conduct, as defined in s. 847.001.

58 (3) (a) Except as provided in paragraph (b), a person who  
59 willfully and maliciously sexually cyberharasses another person  
60 commits a misdemeanor of the first degree, punishable as  
61 provided in s. 775.082 or s. 775.083.

62 (b) A person who has one prior conviction for sexual  
63 cyberharassment and who commits a second or subsequent sexual  
64 cyberharassment commits a felony of the third degree, punishable  
65 as provided in s. 775.082, s. 775.083, or s. 775.084.

66 (4) (a) A law enforcement officer may arrest, without a  
67 warrant, any person that he or she has probable cause to believe  
68 has violated this section.

69 (b) Upon proper affidavits being made, a search warrant  
70 may be issued to further investigate violations of this section,  
71 including warrants issued to search a private dwelling.

72 (5) An aggrieved person may initiate a civil action  
73 against a person who violates this section to obtain all  
74 appropriate relief in order to prevent or remedy a violation of  
75 this section, including the following:

76 (a) Injunctive relief.

77 (b) Monetary damages to include \$5,000 or actual damages  
78 incurred as a result of a violation of this section, whichever  
79 is greater.

80 (c) Reasonable attorney fees and costs.

81 (6) The criminal and civil penalties of this section do  
82 not apply to:

83 (a) A provider of an interactive computer service as  
84 defined in 47 U.S.C. s. 230(f), information service as defined  
85 in 47 U.S.C. s. 153, or communications service as defined in s.  
86 202.11, that provides the transmission, storage, or caching of  
87 electronic communications or messages of others; other related  
88 telecommunications or commercial mobile radio service; or  
89 content provided by another person; or

90 (b) A law enforcement officer, as defined in s. 943.10, or  
91 any local, state, federal, or military law enforcement agency,  
92 that publishes a sexually explicit image in connection with the  
93 performance of his or her duties as a law enforcement officer,  
94 or law enforcement agency.

95 (7) A violation of this section is committed within this  
96 state if any conduct that is an element of the offense, or any  
97 harm to the depicted person resulting from the offense, occurs  
98 within this state.

99 Section 2. This act shall take effect October 1, 2019.