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CS/HB 133, Engrossed 1

2015 Legislature

1
2 An act relating to sexual offenses; providing a short
3 title; amending s. 775.15, F.S.; revising time
4 limitations for the criminal prosecution of specified
5 sexual battery offenses if the victim is 16 years of
6 age or older; providing applicability; amending s.
7 847.0141, F.S.; removing the court's discretion to
8 impose a specified penalty for a first violation of
9 sexting; requiring a minor cited for a first violation
10 to sign and accept a citation to appear before
11 juvenile court or, in lieu of appearing in court, to
12 complete community service work, pay a civil penalty,
13 or participate in a cyber-safety program within a
14 certain period of time, if such program is locally
15 available; requiring the citation to be in a form
16 prescribed by the issuing law enforcement agency;
17 requiring such citation to include certain
18 information; authorizing a court to order certain
19 penalties under certain circumstances; authorizing a
20 court to order specified additional penalties in
21 certain circumstances; prohibiting the court from
22 imposing incarceration; conforming provisions to
23 changes made by the act; requiring that a specified
24 percentage of civil penalties received by a juvenile
25 court be remitted by the clerk of court to the county
26 commission to provide cyber-safety training for



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27 minors; requiring that the remaining percentage remain
28 with the clerk of the court to cover administrative
29 costs; amending s. 985.0301, F.S.; creating exclusive
30 original jurisdiction in the circuit court when a
31 child is alleged to have committed a noncriminal
32 violation that is assigned to juvenile court;
33 providing an effective date.

34

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

36

37 Section 1. This act may be cited as the "43 Days
38 Initiative Act."

39 Section 2. Paragraph (b) of subsection (13) of section
40 775.15, Florida Statutes, is republished, and subsection (14) of
41 that section is amended, to read:

42 775.15 Time limitations; general time limitations;
43 exceptions.—

44 (13)

45 (b) If the offense is a first degree felony violation of
46 s. 794.011 and the victim was under 18 years of age at the time
47 the offense was committed, a prosecution of the offense may be
48 commenced at any time. This paragraph applies to any such
49 offense except an offense the prosecution of which would have
50 been barred by subsection (2) on or before October 1, 2003.

51 (14) (a) A prosecution for a first or second degree felony
52 violation of s. 794.011, if the victim is 16 ~~18~~ years of age or



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53 | older at the time of the offense and the offense is reported to
 54 | a law enforcement agency within 72 hours after commission of the
 55 | offense, may be commenced at any time. ~~If the offense is not~~
 56 | ~~reported within 72 hours after the commission of the offense,~~
 57 | ~~the prosecution must be commenced within the time periods~~
 58 | ~~prescribed in subsection (2).~~

59 | (b) Except as provided in paragraph (a) or paragraph
 60 | (13) (b), a prosecution for a first or second degree felony
 61 | violation of s. 794.011, if the victim is 16 years of age or
 62 | older at the time of the offense, must be commenced within 8
 63 | years after the violation is committed. This paragraph applies
 64 | to any such offense except an offense the prosecution of which
 65 | would have been barred by subsection (2) on or before July 1,
 66 | 2015.

67 | Section 3. Subsections (3) and (5) of section 847.0141,
 68 | Florida Statutes, are amended, and subsection (6) is added to
 69 | that section, to read:

70 | 847.0141 Sexting; prohibited acts; penalties.—

71 | (3) A minor who violates subsection (1):

72 | (a) Commits a noncriminal violation for a first violation,
 73 | ~~punishable by 8 hours of community service or, if ordered by the~~
 74 | ~~court in lieu of community service, a \$60 fine. The court may~~
 75 | ~~also order the minor to participate in suitable training or~~
 76 | ~~instruction in lieu of, or in addition to, community service or~~
 77 | ~~a fine. The minor must sign and accept a citation indicating a~~
 78 | ~~promise to appear before the juvenile court. In lieu of~~



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79 appearing in court, the minor may complete 8 hours of community
80 service work, pay a \$60 civil penalty, or participate in a
81 cyber-safety program if such a program is locally available. The
82 minor must satisfy any penalty within 30 days after receipt of
83 the citation.

84 1. A citation issued to a minor under this subsection must
85 be in a form prescribed by the issuing law enforcement agency,
86 must be signed by the minor, and must contain all of the
87 following:

88 a. The date and time of issuance.

89 b. The name and address of the minor to whom the citation
90 is issued.

91 c. A thumbprint of the minor to whom the citation is
92 issued.

93 d. Identification of the noncriminal violation and the
94 time it was committed.

95 e. The facts constituting reasonable cause.

96 f. The specific section of law violated.

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

98 h. The procedures that the minor must follow to contest
99 the citation, perform the required community service, pay the
100 civil penalty, or participate in a cyber-safety program.

101 2. If the citation is contested and the court determines
102 that the minor committed a noncriminal violation under this
103 section, the court may order the minor to perform 8 hours of
104 community service, pay a \$60 civil penalty, or participate in a



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105 | cyber-safety program, or any combination thereof.

106 | 3. A minor who fails to comply with the citation waives
107 | his or her right to contest it, and the court may impose any of
108 | the penalties identified in subparagraph 2. or issue an order to
109 | show cause. Upon a finding of contempt, the court may impose
110 | additional age-appropriate penalties, which may include issuance
111 | of an order to the Department of Highway Safety and Motor
112 | Vehicles to withhold issuance of, or suspend the driver license
113 | or driving privilege of, the minor for 30 consecutive days.
114 | However, the court may not impose incarceration.

115 | (b) Commits a misdemeanor of the first degree for a
116 | violation that occurs after the minor has been ~~being~~ found to
117 | have committed a noncriminal violation for sexting or has
118 | satisfied the penalty imposed in lieu of a court appearance as
119 | provided in paragraph (a), punishable as provided in s. 775.082
120 | or s. 775.083.

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

125 | (5) As used in this section, the term "found to have
126 | committed" means a determination of guilt that is the result of
127 | a plea or trial, or a finding of delinquency that is the result
128 | of a plea or an adjudicatory hearing, regardless of whether
129 | adjudication is withheld.

130 | (6) Eighty percent of all civil penalties received by a



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131 juvenile court pursuant to this section shall be remitted by the
 132 clerk of the court to the county commission to provide training
 133 on cyber-safety for minors. The remaining 20 percent shall
 134 remain with the clerk of the court to defray administrative
 135 costs.

136 Section 4. Subsection (1) of section 985.0301, Florida
 137 Statutes, is amended to read:

138 985.0301 Jurisdiction.—

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

141 (a) to have committed A delinquent act or violation of
 142 law.

143 (b) A noncriminal violation that has been assigned to
 144 juvenile court by law.

145 Section 5. This act shall take effect July 1, 2015.