

By Senator Bradley

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1 A bill to be entitled
2 An act relating to sexually explicit images of minors;
3 creating s. 847.01358, F.S.; defining terms; creating
4 a cause of action against an interactive computer
5 service for unlawful practices; providing for
6 compensatory damages, injunctive relief, and civil
7 penalties; providing for awards of attorney fees and
8 costs; providing for use of pseudonyms for victims;
9 amending s. 92.56, F.S.; conforming provisions to
10 changes made by the act; providing an effective date.

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

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14 Section 1. Section 847.01358, Florida Statutes, is created
15 to read:

16 847.01358 Cause of action for failure of an interactive
17 computer service to remove a sexually explicit image involving a
18 minor.—

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

20 (a) "Interactive computer service" means any information
21 service, system, or access software provider that provides or
22 enables computer access by multiple users to a computer server,
23 including specifically a service or system that provides access
24 to the Internet and such systems operated or services offered by
25 libraries or educational institutions.

26 (b) "Minor" means a person who has not attained the age of
27 18 years.

28 (c) "Sexually explicit image depicting a minor" means a
29 sexually explicit image as defined in s. 784.049(2) which

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30 depicts as its subject a person who was a minor at the time of
31 the depiction.

32 (2) To the extent not inconsistent with federal law and
33 notwithstanding any other provision of state or local law, a
34 person who, when a minor, was the subject of a sexually explicit
35 image depicting a minor may bring a civil action against an
36 interactive computer service if the interactive computer service
37 fails to remove such image within 24 hours of being notified in
38 writing of the image's existence on the platform. If the
39 plaintiff in such action is a minor, the action may be brought
40 on the minor's behalf by a parent or guardian as authorized by
41 law.

42 (3) (a) In a civil action brought under subsection (2), the
43 court may award compensatory damages and may grant equitable
44 relief, including injunctive relief, to a prevailing plaintiff.
45 The court may also award punitive damages if the defendant's
46 conduct was willful.

47 (b) In addition to the remedies in paragraph (a), the court
48 may impose a civil penalty of \$100,000 per day for noncompliance
49 with an injunction. Funds collected from this civil penalty
50 shall be deposited in the Crimes Compensation Trust Fund created
51 in s. 960.21 to provide benefits under the Florida Crimes
52 Compensation Act. The court shall award reasonable attorney fees
53 and court costs related to the issuance of the injunction.

54 (4) A victim who has a bona fide claim under this section
55 shall, upon request, be provided a pseudonym, pursuant to s.
56 92.56(3), which shall be issued and maintained by the Department
57 of Legal Affairs for use in all legal pleadings. This identifier
58 shall be fully recognized in all courts in this state as a valid

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59 legal identity.

60 Section 2. Subsection (3) of section 92.56, Florida
61 Statutes, is amended to read:

62 92.56 Judicial proceedings and court records involving
63 sexual offenses and human trafficking.—

64 (3) The state may use a pseudonym instead of the victim's
65 name to designate the victim of a crime described in s.
66 787.06(3)(a)1., (c)1., or (e)1., in s. 787.06(3)(b), (d), (f),
67 or (g), or in chapter 794 or chapter 800, or of child abuse,
68 aggravated child abuse, or sexual performance by a child as
69 described in chapter 827, or any crime involving the production,
70 possession, or promotion of child pornography as described in
71 chapter 847, or at the request of a victim in an action under s.
72 847.01358, in all court records and records of court
73 proceedings, both civil and criminal.

74 Section 3. This act shall take effect July 1, 2021.