

**IN THE COUNTY COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR CITRUS COUNTY, FLORIDA**

ADMINISTRATIVE ORDER NO. C-2011-49-A

**AMENDED ORDER REGARDING "SEXTING" PURSUANT TO
SECTION 847.0141, FLORIDA STATUTES (2011)**

THIS CAUSE having come to the attention of the Court as one that affects the effective administration of justice and the Court being advised in the premises finds as follows:

1. A minor commits the offense of "sexting" if the minor knowingly uses a computer or any other device capable of electronic data transmission or distribution to transmit or distribute to another minor any photograph or video of any person which depicts nudity and is harmful to minors. Additionally, a minor commits the offense of "sexting" if the minor knowingly possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity and is harmful to minors.
2. A minor does not commit the offense of "sexting" if the minor did not solicit the photograph or video, and, if the minor took reasonable steps to report the photograph or video to the minor's legal guardian or to a school or law enforcement official, and, if the minor did not transmit or distribute the photograph or video to a third party.
3. "Nudity" is defined pursuant to §847.001(9), Florida Statutes (2011), as "the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state.
4. "Harmful to minors" is defined pursuant to §847.001(6), Florida Statutes (2011), as any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:
 - a. Predominantly appeals to a prurient, shameful, or morbid interest;
 - b. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
 - c. Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.
5. A minor who violates the provisions of §847.0141, Florida Statutes, commits a noncriminal violation for a first violation, punishable by eight (8) hours of community service, or a \$60.00 fine, if ordered by the Court in lieu of community service. The Court may also order the minor to participate in suitable training or instruction in lieu of, or in addition to, the community service requirement.

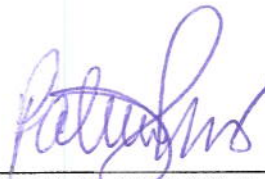
6. A minor commits a misdemeanor of the first degree for a violation of the provisions of §847.0141, Florida Statutes, that occurs after the minor has been found to have committed a noncriminal violation for “sexting.” A misdemeanor of the first degree is punishable by a definite term of imprisonment not exceeding one (1) year and a fine not to exceed \$1,000.00. A minor commits a felony of the third degree for a violation of the provisions of §847.0141, Florida Statutes, that occurs after the minor has been found to have committed a misdemeanor of the first degree for “sexting.” A felony of the third degree is punishable by a term of imprisonment not exceeding five (5) years and a fine not to exceed \$5,000.00. As used in this section, the term “found to have committed” means a determination of guilt that is the result of a plea or trial, or a finding of delinquency that is the result of a plea or an adjudicatory hearing, regardless of whether adjudication is withheld.
7. The County Court in Citrus County, representatives from the Citrus County branch of the State Attorney’s Office for the Fifth Judicial Circuit, Citrus County Sheriff’s Office and representatives from the Citrus County Clerk of Court met to coordinate implementation of §847.0141, Florida Statutes (2011). Pursuant to the meeting, the following procedure implementing §847.0141, Florida Statutes is established:

ORDERED AND ADJUDGED:

8. The Citrus County Sheriff’s Office, in conjunction with the Citrus County Public School System, shall establish a suitable training or instructional course for minors in accordance with the intentions of §847.0141, Florida Statutes (2011).
9. When a minor is first suspected of violating §847.0141, Florida Statutes, the investigating law enforcement officer, subject to the policies and procedures of their agency, shall use their sound discretion to either: a) formally charge the minor by filing an appropriate civil citation for said offense with the Citrus County Clerk of Court, or, b) administratively dispose of the case, or c) decline to pursue the alleged violation because there is insufficient evidence to support a violation. Administrative disposition shall require the minor to attend and successfully complete the suitable training or instruction course established under paragraph 8.
10. Upon the first formal charging of a minor pursuant to 9(a) above, the minor shall enter a plea of guilty, not guilty, or no contest within thirty (30) days of being formally charged, i.e. the date the civil citation was issued. The first formal charging of a minor under this paragraph is a non-criminal violation pursuant to §847.0141(3)(a), Florida Statutes. Failure to timely enter a plea shall be deemed an admission and a plea of guilty.
11. Upon entering a plea of guilty or no contest, or having been found guilty by failing to timely enter a plea in accordance with paragraph 10 above, the Citrus County Clerk of Court shall enter a determination that the minor is guilty of the offense.

12. A minor determined to be guilty pursuant to paragraph 11 above is ordered to complete eight (8) hours of community service with a pre-approved supervisor within thirty (30) days of the determination of guilty and provide proof of completion of those hours to the Citrus County Clerk of Court. Failure to timely complete the community service hours and provide proof thereof will result in the imposition of a fine of \$60.00 plus any statutorily applicable costs and suspension of the offender's driving privileges until the monetary obligations are satisfied. The fines, costs and driver's license suspension shall replace the eight (8) hours of community service.
13. A plea of not guilty shall cause the case to be placed on the County Court infraction docket for hearing and disposition.
14. The second formal charging of a minor shall be a first degree misdemeanor pursuant to §847.0141(3)(b), Florida Statutes, and shall proceed through the criminal justice system as all other first degree misdemeanors charged against minors.
15. The third formal charging of a minor shall be a third degree felony pursuant to §847.0141(3)(c), Florida Statutes, and shall proceed through the criminal justice system as all other third degree felonies charged against minors.
16. Should the Legislature amend the statutory notations (chapter, section, subsection, etc), this Order shall be deemed amended to comply with such legislative amendment.
17. This Order shall be effective immediately upon the date it is signed and shall remain in effect until vacated, amended, rescinded or supplemented.

DONE AND ORDERED in Chambers, at Inverness, Citrus County, Florida, on this 18 day of Sept, 2012.



PATRICIA V. THOMAS
Administrative Judge
Citrus County