

## **COMMITTEE AMENDMENT ANALYSIS**

**Bill:** House Bill 815

**Printer's No.:** 1711

**Amendment No.:** A13164

**Prepared by:** Gregg Warner

**Summary:** This amendment removes the provisions of the bill and replaces them with the criminal offense of transmitting sexually explicit images by a minor. A minor commits a summary offense when the minor knowingly transmits, distributes, publishes or disseminates an electronic communication containing a sexually explicit image of himself.

A minor commits a misdemeanor of the third degree when the minor (1) knowingly transmits, distributes, publishes or disseminates an electronic communication containing a sexually explicit image of another minor who is 12 years of age or older; (2) knowingly possesses a sexually explicit image of another minor who is 12 years of age or older; or (3) knowingly views a sexually explicit image of another minor who is 12 years of age or older.

A minor commits a misdemeanor of the second degree when, with the intent to coerce, intimidate, torment, harass or otherwise cause emotional distress to another minor, the minor (1) makes a visual depiction of any minor in the state of nudity without the knowledge and consent of the depicted minor; or (2) transmits, distributes, publishes or disseminates a visual depiction of any minor in a state of nudity without the knowledge and consent of the depicted minor.

Definitions are included for key terms such as “knowingly possesses” and “knowingly views” to make sure that it does not include accidental or inadvertent possession or viewing of sexually explicit material.

Any electronic communication device used in violation of this offense shall be subject to forfeiture to the Commonwealth and no property right shall exist in it.

The amendment attempts to combine many of the elements of sexting from House Bill 815 with the concept of cyberbullying from Senate Bill 850. The provisions of House Bill 815 relating to alternative dispositions and expungement are not included in the amendment because they are sufficiently covered by current law.