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A bill to be entitled
 An act relating to online dating services; providing definitions; requiring criminal background checks before allowing a member of a dating service to perform certain acts; providing exceptions; requiring disclosures in certain circumstances; requiring each service to establish a policy concerning criminal background check results; providing minimum requirements for a policy; requiring opportunities for certain persons to review the policy; requiring a specified disclosure on the profile of a person with a criminal conviction; providing for civil actions for violations of the act; providing for damages, including specified liquidated damages, costs, and attorney's fees; providing for actions by the Attorney General to enforce the act; providing specified immunity for the state; providing for criminal violations of the act; providing penalties; providing specified acts by operators do not violate the act; providing an effective date.

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

Section 1. Definitions.--As used in this act:

(1) "Communicate" or "communicating" means free-form text or real-time voice communication.

(2) "Criminal background check" means a search for a person's felony and sexual offense convictions by one of the following means:

29 (a) Through the criminal history record system maintained
30 by the Federal Bureau of Investigation based on fingerprint
31 identification or any other method of positive identification
32 used by the Federal Bureau of Investigation.

33 (b) Through the criminal history record systems maintained
34 by each of the 50 states and the District of Columbia.

35 (c) Through a private vendor whose database contains more
36 than 170,000,000 criminal records, has substantially national
37 coverage, is updated at least once every 30 days, and is
38 operated and maintained in the United States.

39 (d) Through a database search conducted by the Florida
40 Department of Law Enforcement and one of the searches provided
41 for in paragraphs (a)-(c).

42 (3) "Member" means a person who is either a member or who
43 submits a profile or other information for the purpose of
44 dating, matrimonial, or social referral services to an online
45 dating service provider.

46 (4) "Online dating service provider" or "provider" means a
47 person or organization engaged, directly or indirectly, in the
48 business of offering, promoting, or providing access to dating,
49 relationship, compatibility, matrimonial, or social referral
50 services primarily through the Internet.

51 Section 2. Criminal background check; required
52 disclosures.--

53 (1) An online dating service provider that provides
54 services to residents of this state shall do one of the
55 following:

56 (a) Conduct a criminal background check for each member
57 using the online dating service before allowing that person to
58 communicate with another person through the service.

59 (b) Disclose clearly and conspicuously, to all website
60 visitors residing in this state, on the provider's homepage and
61 all other pages where visitors or members first enter the
62 provider's website, on the profile page, and on all e-mails sent
63 through the service by communicating members, within the top
64 one-third of the webpage, that the online dating service
65 provider has not conducted criminal background checks under
66 paragraph (a). The disclosure shall state the following:

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68 "WARNING: [NAME OF PROVIDER] HAS NOT CONDUCTED FELONY
69 OR SEXUAL OFFENSE BACKGROUND CHECKS ON ITS MEMBERS."

70
71 (c) If the provider conducts a criminal background check
72 as provided in section 1(2)(b), display through a readily
73 accessible link on the provider's homepage, within the top one-
74 third of the webpage visible after selecting the disclosure
75 link, a conspicuous disclosure that states the following:

76
77 "WARNING: BASED SOLELY ON THE NAME PROVIDED BY THE
78 MEMBER, [NAME OF PROVIDER] HAS CONDUCTED A CRIMINAL
79 BACKGROUND CHECK THROUGH THE CRIMINAL HISTORY RECORD
80 SYSTEMS MAINTAINED BY EACH OF THE 50 STATES AND THE
81 DISTRICT OF COLUMBIA."

82

83 (d) If the provider conducts a criminal background check
84 as provided in section 1(2)(c), display through a readily
85 accessible link on the provider's homepage, within the top one-
86 third of the webpage visible after selecting the disclosure
87 link, a conspicuous disclosure that states the following:

88
89 "WARNING: BASED SOLELY ON THE NAME PROVIDED BY THE
90 MEMBER, [NAME OF PROVIDER] HAS CONDUCTED A CRIMINAL
91 DATABASE SEARCH THROUGH A PRIVATE VENDOR WHOSE RECORDS
92 MAY NOT INCLUDE ALL CONVICTIONS FROM ALL
93 JURISDICTIONS. CONTACT [NAME OF PROVIDER] FOR
94 INFORMATION REGARDING WHICH JURISDICTIONS ARE
95 INCLUDED."

96
97 (e)1. If the provider conducts a criminal background check
98 as provided in section 1(2)(d), display through a readily
99 accessible link on the provider's homepage, within the top one-
100 third of the webpage visible after selecting the disclosure
101 link, a conspicuous disclosure that states the following:

102
103 "WARNING: BASED SOLELY ON THE NAME PROVIDED BY THE
104 MEMBER, [NAME OF PROVIDER] HAS CONDUCTED A CRIMINAL
105 DATABASE SEARCH THROUGH FLORIDA RECORDS MAINTAINED BY
106 THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT."

107
108 2. If the provider has made the required additional
109 search under section 1(2)(d) using the method provided in

110 section 1(2)(b) or section 1(2)(c), a sentence shall be
 111 added to the disclaimer as follows:

112 a. If the additional search was done pursuant section
 113 1(2)(b), add the following:

114
 115 "ADDITIONALLY, [NAME OF PROVIDER] HAS CONDUCTED A CRIMINAL
 116 BACKGROUND CHECK THROUGH THE CRIMINAL HISTORY RECORD
 117 SYSTEMS MAINTAINED BY EACH OF THE 50 STATES AND THE
 118 DISTRICT OF COLUMBIA."

119
 120 b. If the additional search was done pursuant to
 121 section 1(2)(c), add the following:

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 123 "ADDITIONALLY, [NAME OF PROVIDER] HAS CONDUCTED A
 124 CRIMINAL BACKGROUND CHECK THROUGH A PRIVATE VENDOR
 125 WHOSE RECORDS MAY NOT INCLUDE ALL CONVICTIONS FROM ALL
 126 JURISDICTIONS. CONTACT [NAME OF PROVIDER] FOR
 127 INFORMATION REGARDING WHICH JURISDICTIONS ARE
 128 INCLUDED."

129
 130 (2) An online dating service provider that conducts
 131 criminal background checks shall update each criminal background
 132 check at least once every 90 days.

133 Section 3. Provider policy.--

134 (1) Each online dating service provider shall establish a
 135 policy that conforms to the requirements of this act as to what
 136 actions the provider will initiate as a result of information

137 obtained through a criminal background check or database search.

138 At a minimum, the policy shall contain the following:

139 (a) An acknowledgement that criminal background checks are
140 not a perfect safety solution and an acknowledgement that
141 criminals may circumvent even the most sophisticated search
142 technology.

143 (b) An acknowledgement that only felony convictions, not
144 all arrests, are covered by the criminal background checks,
145 unless the provider uses the Federal Bureau of Investigation
146 database.

147 (c) An acknowledgement that first-time offenders can
148 commit crimes and will not have a prior criminal conviction.

149 (d) A description of additional safety measures reasonably
150 designed to increase awareness of safer dating practices.

151 (e) A statement clearly describing whether the provider
152 excludes from its website all persons identified as having a
153 criminal conviction.

154 (2) A copy of the policy established under subsection (1)
155 shall be made available to each person who applies for
156 membership with the provider.

157 (3) The provider's homepage shall contain a link that will
158 allow a person to review the policy established under subsection
159 (1).

160 (4) If a provider chooses not to exclude from its website
161 all persons identified as having a criminal conviction, then the
162 provider shall prominently disclose on the profile of each such
163 person when shown or sent to a member residing in this state the
164 following warning:

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"WARNING: THIS PERSON HAS BEEN IDENTIFIED AS HAVING A
PRIOR CRIMINAL CONVICTION."

Section 4. Civil remedies.--

(1) A civil action may be brought by a person who suffers
damages as a result of a violation of this act.

(2) In an action brought under this section, a person who
suffers damages as a result of a violation of this act may
recover actual costs, actual and reasonable attorney fees, and
the greater of the following:

(a) Actual damages; or

(b) Damages of \$250 for each day for which the
requirements of this act are not met.

(3) If the online dating service provider fails to meet
the disclosure requirements of this act for any of its members
or visitors, such failure constitutes a separate violation for
each member or visitor for whom the required disclosure was not
provided.

(4) A civil action may be brought by the Attorney General
against a violator of this act as provided in this section.
However, existence of the right of action in this subsection
does not impose any liability on the state or its agents.

Section 5. Criminal violations.--

(1) A person who violates this act commits a misdemeanor
of the first degree, punishable as provided in s. 775.082 or s.
775.083, except that, as provided in s. 775.083(1)(g), a fine of

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192 \$250 is authorized for each day for which the requirements of
193 this act are not met.

194 (2) If the online dating service provider fails to meet
195 the disclosure requirements of this act for any of its members
196 or visitors, each such failure constitutes a separate violation
197 for each person for whom the required disclosure was not
198 provided.

199 Section 6. Provider acting as intermediary.--A provider
200 does not violate this act as a result of being an intermediary
201 between the sender and recipient in the transmission of a
202 message that violates this act.

203 Section 7. This act shall take effect upon becoming a law.