

Bill No. SB 1768

Barcode 410494

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
. .
. .
. .
. .
. .

The Committee on Commerce and Consumer Services (Crist) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 501.165, Florida Statutes, is created to read:

501.165 Short title; legislative intent.--Sections 501.165-501.171 may be cited as the "Florida Internet Dating Disclosure and Safety Awareness Act." The Legislature finds that a disclosure in the form of a notice on the websites of online dating services informing the residents of Florida that a criminal background check may or may not have been conducted on its members fulfills a compelling state interest to increase public awareness of the possible risks to personal safety involved with online dating.

Section 2. Section 501.166, Florida Statutes, is created to read:

501.166 Definitions.--As used in ss. 501.165-501.171:

Bill No. SB 1768

Barcode 410494

1 (1) "Communicate" or "communicating" means free-form
2 text authored by a member or real-time voice communication
3 through an online dating service provider.

4 (2) "Criminal background check" means a search for a
5 person's felony and sexual offense convictions initiated by an
6 online dating service provider, conducted through one of the
7 following means:

8 (a) By searching all available regularly updated
9 government databases for such criminal history records as
10 maintained by each of the 50 states, including their
11 subdivisions and the District of Columbia; or

12 (b) By searching a database maintained by a private
13 vendor which is updated at least every 30 days and which
14 contains at least the same or substantially similar criminal
15 history records as would be otherwise accessible through
16 searches of all the available government databases specified
17 in paragraph (a).

18 (3) "Member" means a person who submits to an online
19 dating service provider the information required by the
20 provider to access the provider's service for the purpose of
21 engaging in dating, participating in compatibility evaluations
22 with other persons, or obtaining matrimonial matching
23 services.

24 (4) "Online dating service provider" or "provider"
25 means a person engaged in the business of offering or
26 providing to its members access to dating, compatibility
27 evaluations between persons, or matrimonial matching services
28 through the Internet.

29 (5) "Sexual offense conviction" means a conviction for
30 an offense which would qualify the offender for registration
31 as a sexual offender under s. 943.0435 or under another

Bill No. SB 1768

Barcode 410494

1 state's equivalent statute.

2 Section 3. Section 501.167, Florida Statutes, is
3 created to read:

4 501.167 Criminal background check; required
5 disclosures.--An online dating service provider offering
6 services to residents of this state shall disclose clearly and
7 conspicuously, to any member who provides a Florida address
8 when registering with the provider, that the online dating
9 provider either conducts a criminal background check on each
10 member prior to permitting any member to communicate with a
11 Florida resident, or that the online dating service provider
12 does not conduct criminal background checks.

13 (1) If the online dating service provider does not
14 conduct criminal background checks, the disclosure shall read:

15
16 NO CRIMINAL BACKGROUND CHECK IS DONE ON MEMBERS
17 WHO USE THIS SERVICE. PLEASE TAKE APPROPRIATE
18 SAFETY MEASURES TO INCREASE AWARENESS OF
19 POSSIBLE RISKS ASSOCIATED WITH DATING.

20
21 (2) If the online dating service provider does conduct
22 criminal background checks, the disclosure shall read:

23
24 BASED SOLELY ON THE INFORMATION REQUIRED FROM
25 EACH PERSON TO BECOME A MEMBER WITH OUR
26 SERVICE, ...(NAME OF PROVIDER)... INITIATES A
27 CRIMINAL BACKGROUND CHECK FOR FELONY AND SEXUAL
28 OFFENSE CONVICTIONS BEFORE A MEMBER IS
29 PERMITTED TO COMMUNICATE WITH ANOTHER MEMBER.
30 PLEASE CLICK HERE TO REVIEW THE TYPE OF SEARCH
31 CONDUCTED AND OUR SAFETY AWARENESS NOTIFICATION

Bill No. SB 1768

Barcode 410494

1 ASSOCIATED WITH THIS CRIMINAL BACKGROUND CHECK.

2

3 (3) The disclosure required by either subsection (1)
4 or subsection (2) shall appear on a web page required to be
5 viewed by a person applying to be a member who has indicated a
6 Florida billing address or zip code in the sign-up process.
7 The provider shall require the applicant to make an electronic
8 acknowledgement that the applicant has been provided the
9 disclosure before the applicant is accepted as a member. The
10 disclosure required by either subsection (1) or subsection (2)
11 shall additionally appear on any page that appears to a
12 Florida member each time that member initiates or receives a
13 communication with another member through the provider's
14 service.

15 (4) If the online dating service provider does conduct
16 criminal background checks, and the provider has a policy
17 allowing a member who has been identified as having a felony
18 or sexual offense conviction to have access to its service to
19 communicate with any Florida member, the provider shall
20 clearly and conspicuously disclose on any web page or any
21 communication that contains the personal information for the
22 member who has been identified as having a felony or sexual
23 offense conviction and that is seen by or communicated to a
24 Florida member a disclosure that shall read:

25

26 THIS PERSON HAS BEEN IDENTIFIED AS HAVING A
27 FELONY OR SEXUAL OFFENSE CONVICTION.

28

29 Section 4. Section 501.168, Florida Statutes, is
30 created to read:

31 501.168 Provider policies; disclosure.--An online

Bill No. SB 1768

Barcode 410494

1 dating service provider that does conduct criminal background
 2 checks shall establish an electronic link from any web page
 3 containing the disclosure required by s. 501.167(2) to a web
 4 page that provides a "safety awareness notification." At a
 5 minimum, the safety awareness notification shall provide for
 6 the following:

7 (1) A list and description of safety measures
 8 reasonably designed to increase awareness of safer dating
 9 practices.

10 (2) A statement that criminal background checks are
 11 not a perfect safety solution and that criminals may
 12 circumvent even the most sophisticated search technology.

13 (3) A statement that only publicly available felony
 14 convictions and sexual offense convictions that occurred
 15 within the United States are included in a criminal background
 16 check, and such background checks do not cover other
 17 convictions, arrests, or persons residing in foreign
 18 countries.

19 (4) A statement as to whether the provider permits a
 20 member who has been identified as having a felony or sexual
 21 offense conviction to communicate with any other member.

22 Section 5. Section 501.169, Florida Statutes, is
 23 created to read:

24 501.169 Civil penalties.--An online dating service
 25 provider that signs up members from Florida must comply with
 26 the provisions of this act.

27 (1) The Legislature finds that the act of transmitting
 28 files over the Internet addressed to residents of the state,
 29 and the act of accepting membership fees from residents of the
 30 state, means that an online dating service is operating,
 31 conducting, engaging in, and otherwise carrying on a business

Bill No. SB 1768

Barcode 410494

1 in the state subjecting such online dating service providers
2 to regulation by the state and to the jurisdiction of the
3 state's courts.

4 (2) Failure to comply with the disclosure requirements
5 of this act shall constitute a deceptive and unfair trade
6 practice under part II of chapter 501. Each failure to provide
7 a required disclosure constitutes a separate violation.

8 (3) In addition to the remedy provided in subsection
9 (1), the court may impose a civil penalty of up to \$1,000 per
10 violation, with an aggregate total not to exceed \$25,000 for
11 any 24-hour period, against any online dating service provider
12 who violates any requirement of this act. Suit may be brought
13 by an enforcing authority, as defined by s. 501.203(2), or by
14 the Division of Consumer Services of the Department of
15 Agriculture and Consumer Services. Any penalties collected
16 shall accrue to the enforcing authority or the division to
17 further consumer enforcement efforts.

18 Section 6. Section 501.171, Florida Statutes, is
19 created to read:

20 501.171 Exclusions.--

21 (1) An Internet service provider does not violate this
22 act solely as a result of serving as an intermediary for the
23 transmission of electronic messages between members of an
24 online dating service provider.

25 (2) An Internet access service or other Internet
26 service provider shall not be considered an online dating
27 service provider within the meaning of this act as to any
28 online dating service website provided by another person or
29 entity.

30 (3) A provider that has fewer than 1,000 members is
31 exempt from the requirements of ss. 501.165-501.171.

Bill No. SB 1768

Barcode 410494

1 Section 7. If any provision of this act or the
2 application thereof to any person or circumstance is held
3 invalid, the invalidity does not affect other provisions or
4 applications of this act which can be given effect without the
5 invalid provision or application, and to this end the
6 provisions of this act are declared to be severable.

7 Section 8. The Division of Statutory Revision is
8 requested to include the provisions of this act in part I of
9 chapter 501, Florida Statutes.

10 Section 9. This act shall take effect July 1, 2005..

11
12

13 ===== T I T L E A M E N D M E N T =====

14 And the title is amended as follows:

15 Delete everything before the enacting clause

16
17 and insert:

18 A bill to be entitled

19 An act relating to online dating services;
20 creating ss. 501.165, 501.166, 501.167,
21 501.168, 501.169, and 501.171, F.S.; providing
22 a short title; providing legislative intent;
23 defining terms; requiring disclosures by online
24 dating services; requiring certain online
25 dating services to develop and publish
26 policies; creating civil penalties; providing
27 exclusions; providing a severability clause;
28 providing an effective date.

29
30
31