

Bill No. SB 1768

Barcode 940262

CHAMBER ACTION

Senate

House

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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:

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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 available and regularly updated  
9 government public record databases for felony and sexual  
10 offense convictions so long as such databases, in the  
11 aggregate, provide substantially national coverage; 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 for a fee access to dating,  
27 compatibility evaluations between persons, or matrimonial  
28 matching services 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 pursuant to s. 943.0435, or under another

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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 billing address in  
8 this state or a zip code in this state when registering with  
9 the provider, that the online dating provider either initiates  
10 a background search of felony and sexual offense convictions  
11 on each member prior to permitting any member to communicate  
12 with a member in this state, or that the online dating service  
13 provider does not initiate such a background search.

14 (1) If the online dating service provider does not  
15 initiate criminal background checks, the provider must make a  
16 disclosure that shall read:

17  
18 NO BACKGROUND SEARCH OF FELONY OR SEXUAL  
19 OFFENSE CONVICTIONS IS DONE ON MEMBERS WHO USE  
20 THIS SERVICE. PLEASE TAKE APPROPRIATE SAFETY  
21 MEASURES TO INCREASE AWARENESS OF POSSIBLE  
22 RISKS ASSOCIATED WITH DATING.

23  
24 (2) If the online dating service provider does  
25 initiate criminal background checks, the disclosure shall  
26 read:

27  
28 . . . [NAME OF PROVIDER] . . . INITIATES A  
29 LIMITED BACKGROUND SEARCH FOR FELONY AND SEXUAL  
30 OFFENSE CONVICTIONS BEFORE A MEMBER IS  
31 PERMITTED TO COMMUNICATE WITH ANY MEMBER FROM

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FLORIDA.

1           FLORIDA.  
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 billing address in this state or zip code in this state in the  
7 registration process and such disclosure cannot be more than 3  
8 inches from the top of the web page, in bold capital letters,  
9 in at least 12 point type, in a color that contrasts from the  
10 background. The provider shall require the applicant in this  
11 state to make an electronic acknowledgement that the applicant  
12 has been provided the disclosure before the applicant is  
13 accepted as a member. The disclosure required by either  
14 subsection (1) or subsection (2) shall additionally appear on  
15 any page that appears to a member in this state each time that  
16 member initiates or receives a communication with another  
17 member through the provider's service.

18           (4) If the online dating service provider conducts  
19 criminal background checks, and the provider has a policy  
20 allowing a member who has been identified as having a felony  
21 or sexual offense conviction to have access to its service to  
22 communicate with any member in this state, the provider shall  
23 clearly and conspicuously disclose on any communication to a  
24 member in this state from the member who has been identified  
25 as having a felony or sexual offense conviction, and on any  
26 web page that is seen by or transmitted to a member in this  
27 state that contains the personal information for the member  
28 who has been identified as having a felony or sexual offense  
29 conviction and that is seen by or communicated to a member in  
30 this state a disclosure that shall read:

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1           THIS PERSON HAS BEEN IDENTIFIED AS HAVING A  
2           FELONY OR SEXUAL OFFENSE CONVICTION.

3  
4           Section 4. Section 501.168, Florida Statutes, is  
5 created to read:

6           501.168 Provider policies; disclosure.--An online  
7 dating service provider that conducts criminal background  
8 checks shall establish an automatic electronic link from any  
9 web page containing the disclosure required by s. 501.167(2)  
10 to a web page that provides a "safety awareness notification".  
11 The web page containing the safety awareness notification  
12 shall be configured such that it shall automatically appear  
13 each time a member makes the electronic acknowledgement of the  
14 disclosure under s. 501.167(2). The member is required to make  
15 an electronic acknowledgement of the safety awareness  
16 notification each time it appears and such acknowledgement  
17 shall appear at the bottom of the web page containing such  
18 notification. At a minimum, the safety awareness notification  
19 shall provide the following:

20           (1) A statement that reads:

21  
22                   PERSONAL SAFETY AWARENESS NOTICE  
23           CAUTION: Before allowing Florida members to  
24           communicate with other members . . . [Name of  
25           provider] . . . initiates a background search  
26           of available public records to determine if any  
27           felony or sexual offense convictions are  
28           identified based on the name and other  
29           information we require of members to create a  
30           profile. The purpose is to provide a  
31           preliminary background screening for protection

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1 of our members before they are permitted to  
2 begin communicating directly with each other.

3  
4 The background searches for felony and sexual  
5 offense convictions are not foolproof and are  
6 not intended to give members a false sense of  
7 security. Background checks are not a perfect  
8 safety solution and criminals may circumvent  
9 even the most sophisticated search technology.

10  
11 Not all criminal records are public in all  
12 states and not all databases are up-to-date.  
13 Only publicly available felony and sexual  
14 offense convictions are included in the search  
15 but searches do not cover other convictions or  
16 arrests or any convictions from foreign  
17 countries.

18  
19 Anyone who is able to commit identity theft can  
20 also falsify a dating profile.

21  
22 There is no substitute for using good common  
23 sense and acting with caution when  
24 communicating with any stranger who wants to  
25 meet you.

26  
27 (2) Additional information to be part of the minimum  
28 content of the safety awareness notification shall include a  
29 list and description of safety measures reasonably designed to  
30 increase awareness of safer dating practices as determined by  
31 the provider.

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1 Section 5. Section 501.169, Florida Statutes, is  
2 created to read:

3 501.169 Civil penalties.--An online dating service  
4 provider that signs up members from Florida must comply with  
5 the provisions of this act.

6 (1) The Legislature finds that the act of transmitting  
7 files over the Internet addressed to residents of the state,  
8 and the act of accepting membership fees from residents of the  
9 state, means that an online dating service is operating,  
10 conducting, engaging in, and otherwise carrying on a business  
11 in the state subjecting such online dating service providers  
12 to regulation by the state and to the jurisdiction of the  
13 state's courts.

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

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

28 Section 6. Section 501.171, Florida Statutes, is  
29 created to read:

30 501.171 Exclusions.--

31 (1) An Internet service provider does not violate this

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1 act solely as a result of serving as an intermediary for the  
2 transmission of electronic messages between members of an  
3 online dating service provider.

4 (2) An Internet access service or other Internet  
5 service provider shall not be considered an online dating  
6 service provider within the meaning of this act as to any  
7 online dating service website provided by another person or  
8 entity.

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

11 Section 7. If any provision of this act or the  
12 application thereof to any person or circumstance is held  
13 invalid, the invalidity does not affect other provisions or  
14 applications of this act which can be given effect without the  
15 invalid provision or application, and to this end the  
16 provisions of this act are declared to be severable.

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

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

21

22

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

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26

27 and insert:

28

A bill to be entitled

29

An act relating to online dating services;

30

creating ss. 501.165, 501.166, 501.167,

31

501.168, 501.169, and 501.171, F.S.; providing



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1 a short title; providing legislative intent;  
2 defining terms; requiring disclosures by online  
3 dating services; requiring certain online  
4 dating services to develop and publish  
5 policies; creating civil penalties; providing  
6 exclusions; providing a severability clause;  
7 providing an effective date.

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