

By Senator Lynn

7-1426-06

See HB 511

1                                   A bill to be entitled  
2           An act relating to on-line dating services;  
3           creating ss. 501.165-501.171, F.S., the  
4           "Florida Internet Dating Safety Awareness Act";  
5           providing legislative findings; defining terms;  
6           requiring certain disclosures by on-line dating  
7           services; providing a clearinghouse for  
8           consumers; providing civil penalties; providing  
9           exclusions; providing a directive to the  
10          Division of Statutory Revision; providing  
11          severability; providing an effective date.

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

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

17           501.165 Florida Internet Dating Safety Awareness Act;  
18 legislative findings.--

19           (1) Sections 501.165-501.171 may be cited as the  
20 "Florida Internet Dating Safety Awareness Act."

21           (2)(a) The Legislature has received public testimony  
22 that criminals and sex offenders use on-line dating services  
23 to prey upon the citizens of this state.

24           (b) The Legislature finds that residents of this state  
25 need to be informed when viewing websites of on-line dating  
26 services as to potential risks to personal safety associated  
27 with on-line dating. Also, requiring disclosures in the form  
28 of guidelines for safer dating and informing residents as to  
29 whether a criminal background screening has been conducted on  
30 members of an on-line dating service fulfills a compelling  
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1 state interest to increase public awareness of the possible  
2 risks associated with Internet dating activities.

3 (c) The Legislature finds that the act of transmitting  
4 electronic dating information over the Internet addressed to  
5 residents of the state, and the act of accepting membership  
6 fees from residents of the state, means that an on-line dating  
7 service is operating, conducting, engaging in, and otherwise  
8 carrying on a business in the state subjecting such on-line  
9 dating service providers to regulation by the state and to the  
10 jurisdiction of the state's courts.

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

13 501.166 Definitions.--As used in ss. 501.165-501.171:

14 (1) "Communicate" or "communicating" means free-form  
15 text authored by a member or real-time voice communication  
16 through an on-line dating service provider.

17 (2) "Criminal background screening" means a search for  
18 a person's felony and sexual offense convictions initiated by  
19 an on-line dating service provider and conducted by one of the  
20 following means:

21 (a) By searching available and regularly updated  
22 government public record databases for felony and sexual  
23 offense convictions so long as such databases, in the  
24 aggregate, provide substantial national coverage; or

25 (b) By searching a database maintained by a private  
26 vendor that is regularly updated and is maintained in the  
27 United States with substantial national coverage of criminal  
28 history records and sexual offender registries.

29 (3) "Department" means the Department of Agriculture  
30 and Consumer Services.

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1           (4) "Florida member" means a member as defined in  
2 subsection (5) who provides a Florida billing address or zip  
3 code when registering with the provider.

4           (5) "Member" means a person who submits to an on-line  
5 dating service provider the information required by the  
6 provider to access the provider's service for the purpose of  
7 engaging in dating and participating in compatibility  
8 evaluations with other persons or obtaining matrimonial  
9 matching services.

10           (6) "On-line dating service provider" or "provider"  
11 means a person engaged in the business of offering or  
12 providing to its members access to dating and compatibility  
13 evaluations between persons or matrimonial matching services  
14 through the Internet.

15           (7) "Sexual offense conviction" means a conviction for  
16 an offense that would qualify the offender for registration as  
17 a sexual offender pursuant to s. 943.0435 or under another  
18 jurisdiction's equivalent statute.

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

21           501.167 Provider safety awareness disclosures.--An  
22 on-line dating service provider offering services to Florida  
23 members shall:

24           (1) Provide a safety awareness notification with, at a  
25 minimum, information that includes a list and description of  
26 safety measures reasonably designed to increase awareness of  
27 safer dating practices as determined by the provider. Examples  
28 of such notifications include:

29           (a) "Anyone who is able to commit identity theft can  
30 also falsify a dating profile."

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1           **(b) "There is no substitute for acting with caution**  
2 **when communicating with any stranger who wants to meet you."**

3           **(c) "Never include your last name, e-mail address,**  
4 **home address, phone number, place of work, or any other**  
5 **identifying information in your on-line profile or initial**  
6 **e-mail messages. Stop communicating with anyone who pressures**  
7 **you for personal or financial information or attempts in any**  
8 **way to trick you into revealing it."**

9           **(d) "If you choose to have a face-to-face meeting with**  
10 **another member, always tell someone in your family or a friend**  
11 **where you are going and when you will return. Never agree to**  
12 **be picked up at your home. Always provide your own**  
13 **transportation to and from your date and meet in a public**  
14 **place at a time with many people around."**

15           **(2) If an on-line dating service provider does not**  
16 **conduct criminal background screenings on its members, the**  
17 **provider shall disclose, clearly and conspicuously, to all**  
18 **Florida members that the on-line dating service provider does**  
19 **not conduct criminal background screenings. The disclosure**  
20 **shall be provided when an electronic mail message is sent or**  
21 **received by a Florida member, on the profile describing a**  
22 **member to a Florida member, and on the provider's website**  
23 **pages used when a Florida member signs up. A disclosure under**  
24 **this subsection shall be in bold, capital letters in at least**  
25 **12-point type.**

26           **(3) If an on-line dating service provider conducts**  
27 **criminal background screenings on all of its communicating**  
28 **members, then the provider shall disclose, clearly and**  
29 **conspicuously, to all Florida members that the on-line dating**  
30 **service provider conducts a criminal background screening on**  
31 **each member prior to permitting a Florida member to**

1 communicate with another member. The disclosure shall be  
2 provided on the provider's website pages used when a Florida  
3 member signs up. A disclosure under this subsection shall be  
4 in bold, capital letters in at least 12-point type.

5 (4) If an on-line dating service provider conducts  
6 criminal background screenings, then the provider shall  
7 disclose whether it has a policy allowing a member who has  
8 been identified as having a felony or sexual offense  
9 conviction to have access to its service to communicate with  
10 any Florida member; that background screenings for felony and  
11 sexual offense convictions are not foolproof, are not intended  
12 to give members a false sense of security, are not a perfect  
13 safety solution and criminals may circumvent even the most  
14 sophisticated search technology; that not all criminal records  
15 are public in all states and not all databases are up to date;  
16 that only publicly available felony and sexual offense  
17 convictions are included in the screening; and that screenings  
18 do not cover other types of convictions or arrests or any  
19 convictions from foreign countries.

20 Section 4. Section 501.168, Florida Statutes, is  
21 created to read:

22 501.168 Clearinghouse.--The department shall serve as  
23 the clearinghouse for intake of information concerning ss.  
24 501.165-501.171, the Florida Internet Dating Safety Awareness  
25 Act, from consumers, residents, and victims. The consumer  
26 hotline may be used for this purpose. Information obtained  
27 shall be directed to the appropriate enforcement entity, as  
28 determined by the department.

29 Section 5. Section 501.169, Florida Statutes, is  
30 created to read:

31 501.169 Civil penalties.--

1       (1) An on-line dating service provider that registers  
2 Florida members must comply with the provisions of ss.  
3 501.165-501.171.

4       (2) Failure to comply with the disclosure requirements  
5 of ss. 501.165-501.171 shall constitute a deceptive and unfair  
6 trade practice under part II. Each failure to provide a  
7 required disclosure constitutes a separate violation.

8       (3) In addition to the remedy provided in subsection  
9 (2), 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 on-line dating service  
12 provider that violates any requirement of ss. 501.165-501.171.  
13 Suit may be brought by an enforcing authority, as defined in  
14 s. 501.203. Any penalties collected shall accrue to the  
15 enforcing authority or the department's Division of Consumer  
16 Services to further consumer enforcement efforts.

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

19       501.171 Exclusions.--

20       (1) An Internet access service or other Internet  
21 service provider does not violate ss. 501.165-501.171 solely  
22 as a result of serving as an intermediary for the transmission  
23 of electronic messages between members of an on-line dating  
24 service provider.

25       (2) An Internet access service or other Internet  
26 service provider shall not be considered an on-line dating  
27 service provider within the meaning of ss. 501.165-501.171 as  
28 to any on-line dating service website provided by another  
29 person or entity.

30       Section 7. The Division of Statutory Revision is  
31 directed to include the provisions of sections

1 501.165-501.171, Florida Statutes, in part I of chapter 501,  
2 Florida Statutes.

3           Section 8. If any provision of this act or the  
4 application thereof to any person or circumstance is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of this act which can be given effect without the  
7 invalid provision or application, and to this end the  
8 provisions of this act are declared severable.

9           Section 9. This act shall take effect July 1, 2006.

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