

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

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

12

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

15 501.165 Florida Internet Dating Safety Awareness Act;
 16 legislative findings.--

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

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

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

29 interest to increase public awareness of the possible risks
30 associated with Internet dating activities.

31 (c) The Legislature finds that the act of transmitting
32 electronic dating information over the Internet addressed to
33 residents of the state, and the act of accepting membership fees
34 from residents of the state, means that an on-line dating
35 service is operating, conducting, engaging in, and otherwise
36 carrying on a business in the state subjecting such on-line
37 dating service providers to regulation by the state and to the
38 jurisdiction of the state's courts.

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

41 501.166 Definitions.--As used in ss. 501.165-501.171:

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

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

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

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

57 (3) "Department" means the Department of Agriculture and
 58 Consumer Services.

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

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

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

71 (7) "Sexual offense conviction" means a conviction for an
 72 offense that would qualify the offender for registration as a
 73 sexual offender pursuant to s. 943.0435 or under another
 74 jurisdiction's equivalent statute.

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

77 501.167 Provider safety awareness disclosures.--An on-line
 78 dating service provider offering services to Florida members
 79 shall:

80 (1) Provide a safety awareness notification with, at a
 81 minimum, information that includes a list and description of
 82 safety measures reasonably designed to increase awareness of
 83 safer dating practices as determined by the provider. Examples
 84 of such notifications include:

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

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

89 (c) "Never include your last name, e-mail address, home
90 address, phone number, place of work, or any other identifying
91 information in your on-line profile or initial e-mail messages.
92 Stop communicating with anyone who pressures you for personal or
93 financial information or attempts in any way to trick you into
94 revealing it."

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

101 (2) If an on-line dating service provider does not conduct
102 criminal background screenings on its members, the provider
103 shall disclose, clearly and conspicuously, to all Florida
104 members that the on-line dating service provider does not
105 conduct criminal background screenings. The disclosure shall be
106 provided when an electronic mail message is sent or received by
107 a Florida member, on the profile describing a member to a
108 Florida member, and on the provider's website pages used when a
109 Florida member signs up. A disclosure under this subsection
110 shall be in bold, capital letters in at least 12-point type.

111 (3) If an on-line dating service provider conducts
112 criminal background screenings on all of its communicating

113 members, then the provider shall disclose, clearly and
 114 conspicuously, to all Florida members that the on-line dating
 115 service provider conducts a criminal background screening on
 116 each member prior to permitting a Florida member to communicate
 117 with another member. The disclosure shall be provided on the
 118 provider's website pages used when a Florida member signs up. A
 119 disclosure under this subsection shall be in bold, capital
 120 letters in at least 12-point type.

121 (4) If an on-line dating service provider conducts
 122 criminal background screenings, then the provider shall disclose
 123 whether it has a policy allowing a member who has been
 124 identified as having a felony or sexual offense conviction to
 125 have access to its service to communicate with any Florida
 126 member; that background screenings for felony and sexual offense
 127 convictions are not foolproof, are not intended to give members
 128 a false sense of security, are not a perfect safety solution and
 129 criminals may circumvent even the most sophisticated search
 130 technology; that not all criminal records are public in all
 131 states and not all databases are up to date; that only publicly
 132 available felony and sexual offense convictions are included in
 133 the screening; and that screenings do not cover other types of
 134 convictions or arrests or any convictions from foreign
 135 countries.

136 Section 4. Section 501.168, Florida Statutes, is created
 137 to read:

138 501.168 Clearinghouse.--The department shall serve as the
 139 clearinghouse for intake of information concerning ss. 501.165-
 140 501.171, the Florida Internet Dating Safety Awareness Act, from

141 consumers, residents, and victims. The consumer hotline may be
 142 used for this purpose. Information obtained shall be directed to
 143 the appropriate enforcement entity, as determined by the
 144 department.

145 Section 5. Section 501.169, Florida Statutes, is created
 146 to read:

147 501.169 Civil penalties.--

148 (1) An on-line dating service provider that registers
 149 Florida members must comply with the provisions of ss. 501.165-
 150 501.171.

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

155 (3) In addition to the remedy provided in subsection (2),
 156 the court may impose a civil penalty of up to \$1,000 per
 157 violation, with an aggregate total not to exceed \$25,000 for any
 158 24-hour period, against any on-line dating service provider that
 159 violates any requirement of ss. 501.165-501.171. Suit may be
 160 brought by an enforcing authority, as defined in s. 501.203. Any
 161 penalties collected shall accrue to the enforcing authority or
 162 the department's Division of Consumer Services to further
 163 consumer enforcement efforts.

164 Section 6. Section 501.171, Florida Statutes, is created
 165 to read:

166 501.171 Exclusions.--

167 (1) An Internet access service or other Internet service
 168 provider does not violate ss. 501.165-501.171 solely as a result

HB 511

2006

169 of serving as an intermediary for the transmission of electronic
170 messages between members of an on-line dating service provider.

171 (2) An Internet access service or other Internet service
172 provider shall not be considered an on-line dating service
173 provider within the meaning of ss. 501.165-501.171 as to any on-
174 line dating service website provided by another person or
175 entity.

176 Section 7. The Division of Statutory Revision is directed
177 to include the provisions of sections 501.165-501.171, Florida
178 Statutes, in part I of chapter 501, Florida Statutes.

179 Section 8. If any provision of this act or the application
180 thereof to any person or circumstance is held invalid, the
181 invalidity does not affect other provisions or applications of
182 this act that can be given effect without the invalid provision
183 or application, and to this end the provisions of this act are
184 declared severable.

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