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CHAMBER ACTION

1 The Agriculture Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

14  
15 Be It Enacted by the Legislature of the State of Florida:

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

19 501.165 Florida Internet Dating Safety Awareness Act;  
20 legislative findings.--

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

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

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

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

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

45        501.166 Definitions.--As used in ss. 501.165-501.171:

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

49        (2) "Criminal background screening" means a search for a  
50 person's felony and sexual offense convictions initiated by an

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51 on-line dating service provider and conducted by one of the  
52 following means:

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

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

61 (3) "Department" means the Department of Agriculture and  
62 Consumer Services.

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

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

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

75 (7) "Sexual offense conviction" means a conviction for an  
76 offense that would qualify the offender for registration as a  
77 sexual offender pursuant to s. 943.0435 or under another  
78 jurisdiction's equivalent statute.

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

81 501.167 Provider safety awareness disclosures.--An on-line  
82 dating service provider offering services to Florida members  
83 shall:

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

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

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

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

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

105 (2) If an on-line dating service provider does not conduct  
106 criminal background screenings on its members, the provider

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

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

125 (4) If an on-line dating service provider conducts  
126 criminal background screenings, the provider shall disclose that  
127 background screenings of applicants are not perfect and there is  
128 no way to guarantee that the name provided by a person to be  
129 used in a background screening is the person's true identity.  
130 Also, not all criminal records are publicly available.  
131 Therefore, the screenings may not identify every member who has  
132 a felony or sexual offense conviction and members should  
133 participate in the service at their own risk and use caution  
134 when communicating with other members. Additionally, the

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135 provider shall disclose whether it has a policy allowing a  
136 member who has been identified as having a felony or sexual  
137 offense conviction to have access to its service to communicate  
138 with any Florida member.

139 Section 4. Section 501.168, Florida Statutes, is created  
140 to read:

141 501.168 Clearinghouse.--The department shall serve as the  
142 clearinghouse for intake of information concerning ss. 501.165-  
143 501.171, the Florida Internet Dating Safety Awareness Act, from  
144 consumers, residents, and victims. The consumer hotline may be  
145 used for this purpose. Information obtained shall be directed to  
146 the appropriate enforcement entity, as determined by the  
147 department.

148 Section 5. Section 501.169, Florida Statutes, is created  
149 to read:

150 501.169 Civil penalties.--

151 (1) An on-line dating service provider that registers  
152 Florida members must comply with the provisions of ss. 501.165-  
153 501.171.

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

158 (3) In addition to the remedy provided in subsection (2),  
159 the court may impose a civil penalty of up to \$1,000 per  
160 violation, with an aggregate total not to exceed \$25,000 for any  
161 24-hour period, against any on-line dating service provider that  
162 violates any requirement of ss. 501.165-501.171. Suit may be

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163 brought by an enforcing authority, as defined in s. 501.203. Any  
164 penalties collected shall accrue to the enforcing authority or  
165 the department's Division of Consumer Services to further  
166 consumer enforcement efforts.

167 Section 6. Section 501.171, Florida Statutes, is created  
168 to read:

169 501.171 Exclusions.--

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

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

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

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

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