

Bill No. SB 1224

Barcode 225502

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (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 Internet Predator Awareness Act; legislative findings.--

(1)SHORT TITLE.--This section may be cited as the "Internet Predator Awareness Act."

(2)LEGISLATIVE FINDINGS.--

(a) The Legislature has received public testimony that criminals and sex offenders use online dating services to prey upon the residents of this state.

(b) The Legislature finds that residents of this state need to be informed when viewing websites of online dating services as to potential risks to personal safety associated with online dating. Also, requiring disclosures in the form of

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1 guidelines for safer dating and informing residents as to
 2 whether a criminal background screening has been conducted on
 3 members of an online dating service fulfills a compelling
 4 state interest to increase public awareness of the possible
 5 risks associated with Internet dating activities.

6 (c) The Legislature finds that the acts of
 7 transmitting over the Internet electronic dating information
 8 addressed to residents of this state and accepting membership
 9 fees from residents of this state for Internet dating services
 10 establishes that an online dating service provider is
 11 operating, conducting, engaging in, and otherwise carrying on
 12 a business in this state and subjects such online dating
 13 service provider to regulation by this state and to the
 14 jurisdiction of this state's courts.

15 (3) DEFINITIONS.--As used in this section, the term:

16 (a) "Communicate," "communicating," or "communication"
 17 means free-form text authored by a member or real-time voice
 18 communication through an online dating service provider.

19 (b) "Convicted" or "conviction" or "convictions" has
 20 the same meaning as provided in s. 943.0435(1)(b). However, if
 21 an offense was committed in another jurisdiction, these terms
 22 have the same meaning as provided in that jurisdiction's
 23 equivalent statute.

24 (c) "Criminal background screening" means, at a
 25 minimum, a search for a person's felony, misdemeanor, and
 26 sexual offense convictions initiated by an online dating
 27 service provider and conducted by one of the following means:

28 1. By searching available and regularly updated
 29 government public record databases for felony, misdemeanor,
 30 and sexual offense convictions if such databases, in the
 31 aggregate, provide substantial national coverage for such

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1 felonies, misdemeanors, and sexual offense convictions; or

2 2. By searching a database maintained by a private
3 vendor that is regularly updated and maintained in the United
4 States with substantial national coverage of such felonies,
5 misdemeanors, and sexual offense convictions.

6 (d) "Department" means the Department of Agriculture
7 and Consumer Services.

8 (e) "Felony" has the same meaning as provided in s.
9 775.08. However, if an offense was committed in another
10 jurisdiction, the term has the same meaning as provided in
11 that jurisdiction's equivalent statute.

12 (f) "Florida member" means a member as defined in this
13 section who provides a billing address located in Florida with
14 zip code and other required billing information when
15 registering with the provider.

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

22 (h) "Misdemeanor" has the same meaning as provided in
23 s. 775.08. However, if an offense was committed in another
24 jurisdiction, the term has the same meaning as provided in
25 that jurisdiction's equivalent statute.

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

31 (j) "Sexual offense conviction" means a conviction for

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1 an offense that would qualify the offender for registration as
2 a sexual offender under s. 943.0435. However, if an offense
3 was committed in another jurisdiction, the term has the same
4 meaning as provided in that jurisdiction's equivalent statute.

5 (4) PROVIDER SAFETY AWARENESS DISCLOSURES.--

6 (a) An online dating service provider offering
7 services to members in Florida shall provide a
8 safety-awareness notification containing, at a minimum,
9 information that includes a list and description of safety
10 measures reasonably designed to increase awareness of safer
11 dating practices as determined by the provider. Examples of
12 such notifications include:

13 1. "Anyone who is able to commit identity theft can
14 also falsify a dating profile."

15 2. "There is no substitute for acting with caution
16 when communicating with a stranger who wants to meet you."

17 3. "Never include your last name, e-mail address, home
18 address, phone number, place of work, or any other identifying
19 information in your online profile or initial e-mail messages.
20 Stop communicating with anyone who pressures you for personal
21 or financial information or attempts in any way to trick you
22 into revealing it."

23 4. "If you choose to have a face-to-face meeting with
24 another member, always tell a family member or a friend where
25 you are going and when you will return. Never agree to be
26 picked up at your home. Always provide your own transportation
27 to and from your date and meet in a public place at a time
28 with many people around."

29 (b) If an online dating service provider does not
30 conduct criminal background screenings on its communicating
31 members, the provider shall disclose, clearly and

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1 conspicuously, to all Florida members that the online dating
2 service provider does not conduct criminal background
3 screenings. The disclosure shall be provided, at a minimum, as
4 a hyperlink titled "Safety Tips" from the profile pages
5 describing a member to a Florida member and within the
6 provider's terms and conditions contained on the website pages
7 used when a member registers as a Florida member or changes
8 their registration to become a Florida member, and on the
9 confirmation e-mail sent when a Florida member completes
10 registration or a change of registration.

11 (c) If an online dating service provider conducts
12 criminal background screenings on all of its communicating
13 members, the provider shall disclose, clearly and
14 conspicuously, to all Florida members that the online dating
15 service provider conducts a criminal background screening on
16 each member prior to permitting a Florida member to
17 communicate with another member. Additionally, the provider
18 shall disclose, clearly and conspicuously, to all Florida
19 members whether a member who has been identified as having a
20 felony, misdemeanor, or sexual offense conviction is allowed
21 to communicate with any Florida member. The provider shall
22 also disclose, clearly and conspicuously, that background
23 screenings of applicants can be fallible and there is no way
24 to guarantee that the name provided by a person to be used in
25 a background screening is the person's true identity; and that
26 not all criminal records are publicly available; and that the
27 screenings may not identify every member who has a felony,
28 misdemeanor, or sexual offense conviction and members should
29 participate in the service at their own risk, using caution
30 when communicating with other members. The disclosures under
31 this subsection shall be provided, at a minimum, as a

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1 hyperlink titled "Safety Tips" from the profile pages
2 describing a member to a Florida member and within the
3 provider's terms and conditions contained on the website pages
4 used when a member registers as a Florida member or changes
5 his or her registration to become a Florida member, and on the
6 confirmation e-mail sent when a Florida member completes
7 registration or a change of registration.

8 (d) To address any concerns that the criminal
9 background screenings used by a provider may create a false
10 sense of security, and to allow Florida members to better
11 evaluate and compare the extent and scope of any criminal
12 background screenings conducted by a provider, the disclosures
13 under paragraph (c) shall be immediately followed by a clear
14 and conspicuous hyperlink labeled "Details about our Criminal
15 Background Screenings." This hyperlink shall provide Florida
16 members with access to a web page containing a supplemental
17 disclosure that includes, at a minimum, the name of any
18 private vendor used by the provider for conducting criminal
19 background screenings of felony, misdemeanor, and sexual
20 offense convictions, the frequency with which the database of
21 felony, misdemeanor, and sexual offense criminal convictions
22 used by the provider or private vendor is updated, a listing
23 of each state that is included and excluded, along with any
24 limitations or restrictions on access to the felony,
25 misdemeanor, and sexual offense criminal conviction data
26 available from a state, and whether, in addition to felonies,
27 misdemeanors, and sexual offenses, any other types or
28 categories of criminal convictions are included for each state
29 in the database used by the provider or private vendor.

30 (5) CLEARINGHOUSE.--The department shall serve as the
31 clearinghouse for intake of information concerning this

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1 section from consumers, residents, and victims. The consumer
2 hotline may be used for this purpose. Information obtained
3 shall be directed to the appropriate enforcement entity, as
4 determined by the department.

5 (6) CIVIL PENALTIES.--

6 (a) An online dating service provider that registers
7 Florida members must comply with all provisions of this
8 section.

9 (b) Acts, conduct, practices, omissions, failings,
10 misrepresentations, or nondisclosures committed in violation
11 of this section constitute deceptive and unfair trade
12 practices under part II of this chapter and the department,
13 the Department of Legal Affairs, or the state attorney may
14 institute a civil action in a court of competent jurisdiction
15 to recover any penalties, damages, or injunctive relief to
16 enforce compliance with this section. Each failure to provide
17 a required disclosure constitutes a separate violation.

18 (c) The court may impose a civil penalty of up to
19 \$1,000 per violation, with an aggregate total not to exceed
20 \$25,000 for any 24-hour period, against any online dating
21 service provider that violates any requirement of this
22 section. A lawsuit may be brought by an enforcing authority as
23 defined in s. 501.203 or the department if the department,
24 while acting as the clearinghouse, does not refer the matter
25 to the Department of Legal Affairs or the state attorney. Any
26 penalties collected shall accrue to the enforcing authority or
27 the department's Division of Consumer Services for further
28 consumer enforcement efforts. A private cause of action is not
29 created under this section.

30 (7) EXCLUSIONS.--

31 (a) An Internet access service or other Internet

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1 service provider does not violate this section solely as a
2 result of serving as an intermediary for the transmission of
3 communications between members of an online dating service
4 provider.

5 (b) An Internet access service or other Internet
6 service provider is not an online dating service provider
7 within the meaning of this section as to any online dating
8 service website provided by another person or entity that is
9 not affiliated with the Internet access service or Internet
10 service provider. "Affiliate" or "affiliated" has the same
11 meaning as provided in s. 607.0901.

12 (c) This section does not create a cause of action
13 against an Internet access service, an Internet service
14 provider, or a telecommunications provider whose equipment or
15 network is used to transport or handle the transmission of a
16 communication by any person.

17 Section 2. The Division of Statutory Revision is
18 directed to include the provisions of this section in part I
19 of chapter 501, Florida Statutes.

20 Section 3. If any provision of this act or its
21 application to any individual or circumstance is held invalid,
22 such invalidity does not affect other provisions or
23 applications of which act that can be given effect without the
24 invalid provision or application, and to this end the
25 provisions of this act are severable.

26 Section 4. This act shall take effect July 1, 2007.

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

30 And the title is amended as follows:

31 Delete everything before the enacting clause

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A bill to be entitled
An act relating to Internet predators; creating
s. 501.165, F.S.; providing a short title;
providing legislative findings; providing
definition; requiring certain disclosures by
online dating services; providing a
clearinghouse for consumers; providing civil
penalties for noncompliance; providing
exclusions; providing a directive to the
Division of Statutory Revision; providing for
severability; providing an effective date.