

Bill No. SB 1224

Barcode 540190

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Crist) recommended the following **amendment to amendment** (783068):

Senate Amendment (with title amendment)

On page 1, line 18, through
page 8, line 11, delete those lines

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

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

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

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

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

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

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

- 29 1. By searching available and regularly updated
 30 government public record databases for felony, misdemeanor,
 31 and sexual offense convictions if such databases, in the

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1 aggregate, provide substantial national coverage for such
2 felonies, misdemeanors, and sexual offense convictions; or

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

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

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

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

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

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

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

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

6 (4) PROVIDER SAFETY AWARENESS DISCLOSURES.--

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

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

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

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

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

30 (b) If an online dating service provider does not
 31 conduct criminal background screenings on its communicating

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

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

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

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

31 (5) CLEARINGHOUSE.--The department shall serve as the

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

6 (6) CIVIL PENALTIES.--

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

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

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

31 (7) EXCLUSIONS.--

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1 (a) An Internet access service or other Internet
 2 service provider does not violate this section solely as a
 3 result of serving as an intermediary for the transmission of
 4 communications between members of an online dating service
 5 provider.

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

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

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

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

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

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

31 And the title is amended as follows:

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1 On page 8, lines 19-29, delete those lines

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3 and insert:

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A bill to be entitled

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An act relating to Internet predators; creating

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s. 501.165, F.S.; providing a short title;

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providing legislative findings; providing

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definition; requiring certain disclosures by

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online dating services; providing a

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clearinghouse for consumers; providing civil

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penalties for noncompliance; providing

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exclusions; providing a directive to the

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Division of Statutory Revision; providing for

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severability; providing an effective date.

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