

Bill No. SB 1224

Barcode 783068

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) Sections 501.165-501.171 may be cited as the "Internet Predator Awareness Act."

(2)(a) The Legislature has received public testimony that criminals and sex offenders use online dating services to prey upon the citizens 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 guidelines for safer dating and informing residents as to

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

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

14 Section 2. Section 501.166, Florida Statutes, is
15 created to read:

16 501.166 Definitions.--As used in ss. 501.165-501.171:

17 (1) "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 (2) "Convicted," "conviction," and "convictions" shall
21 have the same meaning as provided in s. 943.0435(1)(b) or, if
22 an offense was committed in another jurisdiction, these terms
23 shall have the same meaning as provided under that
24 jurisdiction's equivalent statute.

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

29 (a) By searching available and regularly updated
30 government public record databases for felony and sexual
31 offense convictions so long as such databases, in the

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

3 (b) By searching a database maintained by a private
4 vendor that is regularly updated and is maintained in the
5 United States with substantial national coverage of such
6 felonies and sexual offense convocations.

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

9 (5) "Felony" shall have the same meaning as provided
10 in s. 775.08 or, if an offense was committed in another
11 jurisdiction, the term shall have the same meaning as provided
12 under that jurisdiction's equivalent statute.

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

17 (7) "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 or participating in compatibility
21 evaluations with other persons or obtaining matrimonial
22 matching services.

23 (8) "Online dating service provider" or "provider"
24 means a person engaged in the business of offering or
25 providing to its members access to dating or compatibility
26 evaluations between persons or matrimonial matching services
27 through the Internet.

28 (9) "Sexual offense conviction" means a conviction for
29 an offense that would qualify the offender for registration as
30 a sexual offender under s. 943.0435 or, if an offense was
31 committed in another jurisdiction, the term shall have the

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1 same meaning as provided under that jurisdiction's equivalent
2 statute.

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

5 501.167 Provider safety awareness disclosures.--An
6 online dating service provider offering services to Florida
7 members shall:

8 (1) Provide a safety awareness notification with, at a
9 minimum, information that includes a list and description of
10 safety measures reasonably designed to increase awareness of
11 safer dating practices as determined by the provider. Examples
12 of such notifications include:

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

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

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

23 (d) "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 (2) 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, on
4 the profile pages describing a member to a Florida member and
5 on the provider's website pages used when a Florida member
6 signs up. A disclosure under this subsection shall be in bold,
7 capital letters in at least 12-point type.

8 (3) If an online dating service provider conducts
9 criminal background screenings on all of its communicating
10 members, the provider shall disclose, clearly and
11 conspicuously, to all Florida members that the online dating
12 service provider conducts a criminal background screening on
13 each member prior to permitting a Florida member to
14 communicate with another member. Additionally, the provider
15 shall disclose to all Florida members whether a member who has
16 been identified as having a felony or sexual offense
17 conviction is allowed to communicate with any Florida member.
18 The disclosure shall be provided on the profile pages
19 describing a member to a Florida member and on the provider's
20 website pages used when a Florida member signs up. A
21 disclosure under this subsection shall be in bold, capital
22 letters in at least 12-point type.

23 (4)(a) If an online dating service provider conducts
24 criminal background screenings, the provider shall also
25 disclose, clearly and conspicuously, that background
26 screenings of applicants can be fallible and there is no way
27 to guarantee that the name provided by a person to be used in
28 a background screening is the person's true identity. Also,
29 not all criminal records are publicly available. The
30 screenings may not identify every member who has a felony or
31 sexual offense conviction and members should participate in

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1 the service at their own risk and use caution when
2 communicating with other members.

3 (b) To enable Florida members to better evaluate and
4 compare the extent and scope of the background screenings, an
5 electronic link shall be provided to a web page that, at a
6 minimum, clearly describes the name of the vendor conducting
7 the background screening, the frequency with which the vendor
8 updates its database of criminal convictions, a list of states
9 covered, and any limitations or restrictions on access to a
10 state's criminal conviction data.

11 Section 4. Section 501.168, Florida Statutes, is
12 created to read:

13 501.168 Clearinghouse.--The department shall serve as
14 the clearinghouse for intake of information concerning ss.
15 501.165-501.171 from consumers, residents, and victims. The
16 consumer hotline may be used for this purpose. Information
17 obtained shall be directed to the appropriate enforcement
18 entity, as determined by the department.

19 Section 5. Section 501.169, Florida Statutes, is
20 created to read:

21 501.169 Civil penalties.--

22 (1) An online dating service provider that registers
23 Florida members must comply with the provisions of ss.
24 501.165-501.171.

25 (2) Acts, conduct, practices, omissions, failings,
26 misrepresentations, or nondisclosures committed in violation
27 of ss. 501.165-501.171 are deceptive and unfair trade
28 practices under part II of this chapter and the department,
29 the Department of Legal Affairs, or the state attorney may
30 institute a civil action in a court of competent jurisdiction
31 to recover any penalties, damages, and injunctive relief to

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1 enforce compliance with ss. 501.165-501.171. Each failure to
2 provide a required disclosure constitutes a separate
3 violation.

4 (3) The court may impose a civil penalty of up to
5 \$1,000 per violation, with an aggregate total not to exceed
6 \$25,000 for any 24-hour period, against any online dating
7 service provider that violates any requirement of ss.
8 501.165-501.171. Suit may be brought by an enforcing authority
9 as defined in s. 501.203 or the department if the department,
10 while acting as the clearinghouse, does not refer the matter
11 to the Department of Legal Affairs or the state attorney. Any
12 penalties collected shall accrue to the enforcing authority or
13 the department's Division of Consumer Services to further
14 consumer enforcement efforts. No private cause of action is
15 created under ss. 501.165-501.171.

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

18 501.171 Exclusions.--

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

24 (2) An Internet access service or other Internet
25 service provider shall not be considered an online dating
26 service provider within the meaning of ss. 501.165-501.171 as
27 to any online dating service website provided by another
28 person or entity that is not an affiliate of the Internet
29 access service or Internet service provider. As used in this
30 subsection, the term "affiliate" shall have the same meaning
31 as provided in s. 607.0901.

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1 Section 7. The Division of Statutory Revision is
 2 directed to include the provisions of sections
 3 501.165-501.171, Florida Statutes, in part I of chapter 501,
 4 Florida Statutes.

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

11 Section 9. This act shall take effect July 1, 2007.

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

15 And the title is amended as follows:

16 Delete everything before the enacting clause

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18 and insert:

19 A bill to be entitled
 20 An act relating to Internet predator awareness;
 21 creating ss. 501.165-501.171, F.S., the
 22 "Internet Predator Awareness Act"; providing
 23 legislative findings; defining terms; requiring
 24 certain disclosures by online dating services;
 25 providing a clearinghouse for consumers;
 26 providing civil penalties; providing
 27 exclusions; providing a directive to the
 28 Division of Statutory Revision; providing
 29 severability; providing an effective date.

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