

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative(s) Ambler offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Section 501.165, Florida Statutes, is created
6 to read:

7 501.165 Internet Predator Awareness Act; legislative
8 findings.--

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

11 (2) LEGISLATIVE FINDINGS.--

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

15 (b) The Legislature finds that residents of this state
16 need to be informed when viewing websites of online dating

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17 services as to potential risks to personal safety associated
18 with online dating. Also, requiring disclosures in the form of
19 guidelines for safer dating and informing residents as to
20 whether a criminal background screening has been conducted on
21 members of an online dating service fulfills a compelling state
22 interest to increase public awareness of the possible risks
23 associated with Internet dating activities.

24 (c) The Legislature finds that the acts of transmitting
25 over the Internet electronic dating information addressed to
26 residents of this state and accepting membership fees from
27 residents of this state for Internet dating services establishes
28 that an online dating service provider is operating, conducting,
29 engaging in, and otherwise carrying on a business in this state
30 and subjects such an online dating service provider to
31 regulation by this state and to the jurisdiction of this state's
32 courts.

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

34 (a) "Communicate" or "communicating" or "communication"
35 means free-form text authored by a member or real-time voice
36 communication through an online dating service provider.

37 (b) "Convicted" or "conviction" or "convictions" has the
38 same meaning as provided in s. 943.0435(1)(b). However, if an
39 offense was committed in another jurisdiction, the term has the
40 same meaning as provided in that jurisdiction's equivalent
41 statute.

42 (c) "Criminal background screening" means, at a minimum, a
43 search for a person's felony, misdemeanor, and sexual offense

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44 convictions initiated by an online dating service provider and
45 conducted by one of the following means:

46 1. By searching available and regularly updated government
47 public record databases for felony, misdemeanor, and sexual
48 offense convictions if such databases, in the aggregate, provide
49 substantial national coverage for such felonies, misdemeanors,
50 and sexual offense convictions; or

51 2. By searching a database maintained by a private vendor
52 that is regularly updated and maintained in the United States
53 with substantial national coverage for such felonies,
54 misdemeanors, and sexual offense convictions.

55 (d) "Department" means the Department of Agriculture and
56 Consumer Services.

57 (e) "Felony" has the same meaning as provided in s.
58 775.08. However, if an offense was committed in another
59 jurisdiction, the term has the same meaning as provided in that
60 jurisdiction's equivalent statute.

61 (f) "Florida member" means a member as defined in this
62 section who provides a billing address located in Florida with
63 zip code and other required billing information when registering
64 with the provider.

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

70 (h) "Misdemeanor" has the same meaning as provided in s.
71 775.08. However, if an offense was committed in another
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72 jurisdiction, the term has the same meaning as provided in that
73 jurisdiction's equivalent statute.

74 (i) "Online dating service provider" or "provider" means a
75 person engaged in the business of offering or providing to its
76 members access to dating, compatibility evaluations between
77 persons, or matrimonial matching services through the Internet.

78 (j) "Sexual offense conviction" means a conviction for an
79 offense that would qualify the offender for registration as a
80 sexual offender under s. 943.0435. However, if an offense was
81 committed in another jurisdiction, the term has the same meaning
82 as provided in that jurisdiction's equivalent statute.

83 (4) PROVIDER SAFETY AWARENESS DISCLOSURES.--

84 (a) An online dating service provider offering services to
85 Florida members shall provide a safety awareness notification
86 containing, at a minimum, information that includes a list and
87 description of safety measures reasonably designed to increase
88 awareness of safer dating practices as determined by the
89 provider. Examples of such notifications include:

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

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

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

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

106 (b) If an online dating service provider does not conduct
107 criminal background screenings on its communicating members, the
108 provider shall disclose, clearly and conspicuously, to all
109 Florida members that the online dating service provider does not
110 conduct criminal background screenings. The disclosure shall be
111 provided, at a minimum, as a hyperlink titled "Safety Tips" from
112 the profile pages describing a member to a Florida member and
113 within the provider's terms and conditions contained on the
114 website pages used when a member registers as a Florida member
115 or changes his or her registration to become a Florida member,
116 and on the confirmation e-mail sent when a Florida member
117 completes registration or a change of registration.

118 (c) If an online dating service provider conducts criminal
119 background screenings on all of its communicating members, the
120 provider shall disclose, clearly and conspicuously, to all
121 Florida members that the online dating service provider conducts
122 a criminal background screening on each member prior to
123 permitting a Florida member to communicate with another member.
124 Additionally, the provider shall disclose, clearly and
125 conspicuously, to all Florida members whether a member who has
126 been identified as having a felony or sexual offense conviction
127 is allowed to communicate with any Florida member. The provider

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128 shall also disclose, clearly and conspicuously, that background
129 screenings of applicants can be fallible and there is no way to
130 guarantee that the name provided by a person to be used in a
131 background screening is the person's true identity; and that not
132 all criminal records are publicly available; and that the
133 screenings may not identify every member who has a felony,
134 misdemeanor, or sexual offense conviction and members should
135 participate in the service at their own risk, using caution when
136 communicating with other members. The disclosures under this
137 subsection shall be provided, at a minimum, as a hyperlink
138 titled "Safety Tips" from the profile pages describing a member
139 to a Florida member and within the provider's terms and
140 conditions contained on the website pages used when a member
141 registers as a Florida member or changes his or her registration
142 to become a Florida member, and on the confirmation e-mail sent
143 when a Florida member completes registration or a change of
144 registration.

145 (d) To address any concerns that the criminal background
146 screenings used by a provider may create a false sense of
147 security, and to allow Florida members to better evaluate and
148 compare the extent and scope of any criminal background
149 screenings conducted by a provider, the disclosures under
150 paragraph (c) shall be immediately followed by a clear and
151 conspicuous hyperlink labeled "Details about our Criminal
152 Background Screenings." This hyperlink shall provide Florida
153 members with access to a web page containing a supplemental
154 disclosure that includes, at a minimum, the name of any private
155 vendor used by the provider for conducting criminal background

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156 screenings of felony, misdemeanor, and sexual offense
157 convictions; the frequency with which the database of felony,
158 misdemeanor, and sexual offense criminal convictions used by the
159 provider or private vendor is updated; a listing of each state
160 that is included and excluded, along with any limitations or
161 restrictions on access to the felony, misdemeanor, and sexual
162 offense criminal conviction data available from a state; and
163 whether, in addition to felonies, misdemeanors, and sexual
164 offenses, any other types or categories of criminal convictions
165 are included for each state in the database used by the provider
166 or private vendor.

167 (5) CLEARINGHOUSE.--The department shall serve as the
168 clearinghouse for intake of information concerning this section
169 from consumers, residents, and victims. The consumer hotline may
170 be used for this purpose. Information obtained shall be directed
171 to the appropriate enforcement entity, as determined by the
172 department.

173 (6) CIVIL PENALTIES.--

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

176 (b) Acts, conduct, practices, omissions, failings,
177 misrepresentations, or nondisclosures committed in violation of
178 this section constitute deceptive and unfair trade practices
179 under part II of this chapter and the department, the Department
180 of Legal Affairs, or the state attorney may institute a civil
181 action in a court of competent jurisdiction to recover any
182 penalties, damages, or injunctive relief to enforce compliance

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183 with this section. Each failure to provide a required disclosure
184 constitutes a separate violation.

185 (c) The court may impose a civil penalty of up to \$1,000
186 per violation, with an aggregate total not to exceed \$25,000 for
187 any 24-hour period, against any online dating service provider
188 that violates any requirement of this section. A lawsuit may be
189 brought by an enforcing authority as defined in s. 501.203 or
190 the department if the department, while acting as the
191 clearinghouse, does not refer the matter to the Department of
192 Legal Affairs or the state attorney. Any penalties collected
193 shall accrue to the enforcing authority or the department's
194 Division of Consumer Services to further consumer enforcement
195 efforts. No private cause of action is created under this
196 section.

197 (7) EXCLUSIONS.--

198 (a) An Internet access service or other Internet service
199 provider does not violate this section solely as a result of
200 servicing as an intermediary for the transmission of
201 communications between members of an online dating service
202 provider.

203 (b) An Internet access service or other Internet service
204 provider is not an online dating service provider within the
205 meaning of this section as to any online dating service website
206 provided by another person or entity that is not affiliated with
207 the Internet access service or Internet service provider.
208 "Affiliate" or "affiliated" has the same meaning as provided in
209 s. 607.0901.

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210 (c) This section does not create a cause of action against
211 an Internet access service, an Internet service provider, or a
212 telecommunications provider whose equipment or network is used
213 to transport or handle the transmission of a communication by
214 any person.

215 Section 2. The Division of Statutory Revision is directed
216 to include the provisions of section 501.165, Florida Statutes,
217 in part I of chapter 501, Florida Statutes.

218 Section 3. If any provision of this act or its application
219 to any individual or circumstance is held invalid, such
220 invalidity does not affect other provisions or applications of
221 this act that can be given effect without the invalid provision
222 or application, and to this end the provisions of this act are
223 severable.

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

225

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

227 Remove the entire title and insert:

228 A bill to be entitled

229 An act relating to Internet predators; creating s.

230 501.165, F.S., providing a short title; providing

231 legislative findings; providing definitions; requiring

232 certain disclosures by online dating services; providing a

233 clearinghouse for consumers; providing civil penalties for

234 noncompliance; providing exclusions; providing a directive

235 to the Division of Statutory Revision; providing for

236 severability; providing an effective date.