

1 A bill to be entitled
 2 An act relating to Internet predator awareness; creating
 3 ss. 501.165-501.171, F.S., the "Internet Predator
 4 Awareness Act"; providing legislative findings; defining
 5 terms; requiring certain disclosures by online dating
 6 services; providing a clearinghouse for consumers;
 7 providing civil penalties; providing exclusions; providing
 8 a directive to the Division of Statutory Revision;
 9 providing severability; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Section 501.165, Florida Statutes, is created
 14 to read:

15 501.165 Internet Predator Awareness Act; legislative
 16 findings.--

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

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

22 (b) The Legislature finds that residents of this state
 23 need to be informed when viewing websites of online dating
 24 services as to potential risks to personal safety associated
 25 with online dating. Also, requiring disclosures in the form of
 26 guidelines for safer dating and informing residents as to
 27 whether a criminal background screening has been conducted on
 28 members of an online dating service fulfills a compelling state

29 interest to increase public awareness of the possible risks
30 associated with Internet dating activities.

31 (c) The Legislature finds that the acts of transmitting
32 over the Internet electronic dating information addressed to
33 residents of the state and accepting membership fees from
34 residents of the state for Internet dating services establishes
35 that an online dating service provider is operating, conducting,
36 engaging in, and otherwise carrying on a business in the state
37 and subjects such an online dating service provider to
38 regulation by the state and to the jurisdiction of the state's
39 courts.

40 Section 2. Section 501.166, Florida Statutes, is created
41 to read:

42 501.166 Definitions.--As used in ss. 501.165-501.171:

43 (1) "Communicate," "communicating," or "communication"
44 means free-form text authored by a member or real-time voice
45 communication through an online dating service provider.

46 (2) "Convicted," "conviction," and "convictions" shall
47 have the same meaning as provided in s. 943.0435(1)(b) or, if an
48 offense was committed in another jurisdiction, these terms shall
49 have the same meaning as provided under that jurisdiction's
50 equivalent statute.

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

55 (a) By searching available and regularly updated
56 government public record databases for felony and sexual offense

57 convictions so long as such databases, in the aggregate, provide
58 substantial national coverage of such felonies and sexual
59 offense convictions; or

60 (b) By searching a database maintained by a private vendor
61 that is regularly updated and is maintained in the United States
62 with substantial national coverage of such felonies and sexual
63 offense convocations.

64 (4) "Department" means the Department of Agriculture and
65 Consumer Services.

66 (5) "Felony" shall have the same meaning as provided in s.
67 775.08 or, if an offense was committed in another jurisdiction,
68 the term shall have the same meaning as provided under that
69 jurisdiction's equivalent statute.

70 (6) "Florida member" means a member as defined in this
71 section who provides a Florida billing address with zip code and
72 other required billing information when registering with the
73 provider.

74 (7) "Member" means a person who submits to an online
75 dating service provider the information required by the provider
76 to access the provider's service for the purpose of engaging in
77 dating or participating in compatibility evaluations with other
78 persons or obtaining matrimonial matching services.

79 (8) "Online dating service provider" or "provider" means a
80 person engaged in the business of offering or providing to its
81 members access to dating or compatibility evaluations between
82 persons or matrimonial matching services through the Internet.

83 (9) "Sexual offense conviction" means a conviction for an
84 offense that would qualify the offender for registration as a

85 sexual offender under s. 943.0435 or, if an offense was
86 committed in another jurisdiction, the term shall have the same
87 meaning as provided under that jurisdiction's equivalent
88 statute.

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

91 501.167 Provider safety awareness disclosures.--An online
92 dating service provider offering services to Florida members
93 shall:

94 (1) Provide a safety awareness notification with, at a
95 minimum, information that includes a list and description of
96 safety measures reasonably designed to increase awareness of
97 safer dating practices as determined by the provider. Examples
98 of such notifications include:

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

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

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

109 (d) "If you choose to have a face-to-face meeting with
110 another member, always tell a family member or a friend where
111 you are going and when you will return. Never agree to be picked
112 up at your home. Always provide your own transportation to and

113 from your date and meet in a public place at a time with many
114 people around."

115 (2) If an online dating service provider does not conduct
116 criminal background screenings on its communicating members, the
117 provider shall disclose, clearly and conspicuously, to all
118 Florida members that the online dating service provider does not
119 conduct criminal background screenings. The disclosure shall be
120 provided, at a minimum, on the profile pages describing a member
121 to a Florida member and on the provider's website pages used
122 when a Florida member signs up. A disclosure under this
123 subsection shall be in bold, capital letters in at least 12-
124 point type.

125 (3) If an online dating service provider conducts criminal
126 background screenings on all of its communicating members, the
127 provider shall disclose, clearly and conspicuously, to all
128 Florida members that the online dating service provider conducts
129 a criminal background screening on each member prior to
130 permitting a Florida member to communicate with another member.
131 Additionally, the provider shall disclose to all Florida members
132 whether a member who has been identified as having a felony or
133 sexual offense conviction is allowed to communicate with any
134 Florida member. The disclosure shall be provided on the profile
135 pages describing a member to a Florida member and on the
136 provider's website pages used when a Florida member signs up. A
137 disclosure under this subsection shall be in bold, capital
138 letters in at least 12-point type.

139 (4) (a) If an online dating service provider conducts
140 criminal background screenings, the provider shall also

141 disclose, clearly and conspicuously, that background screenings
142 of applicants can be fallible and there is no way to guarantee
143 that the name provided by a person to be used in a background
144 screening is the person's true identity. Also, not all criminal
145 records are publicly available. The screenings may not identify
146 every member who has a felony or sexual offense conviction and
147 members should participate in the service at their own risk and
148 use caution when communicating with other members.

149 (b) To enable Florida members to better evaluate and
150 compare the extent and scope of the background screenings, an
151 electronic link shall be provided to a web page that, at a
152 minimum, clearly describes the name of the vendor conducting the
153 background screening, the frequency with which the vendor
154 updates its database of criminal convictions, a list of states
155 covered, and any limitations or restrictions on access to a
156 state's criminal conviction data.

157 Section 4. Section 501.168, Florida Statutes, is created
158 to read:

159 501.168 Clearinghouse.--The department shall serve as the
160 clearinghouse for intake of information concerning ss. 501.165-
161 501.171 from consumers, residents, and victims. The consumer
162 hotline may be used for this purpose. Information obtained shall
163 be directed to the appropriate enforcement entity, as determined
164 by the department.

165 Section 5. Section 501.169, Florida Statutes, is created
166 to read:

167 501.169 Civil penalties.--

168 (1) An online dating service provider that registers

169 Florida members must comply with the provisions of ss. 501.165-
 170 501.171.

171 (2) Acts, conduct, practices, omissions, failings,
 172 misrepresentations, or nondisclosures committed in violation of
 173 ss. 501.165-501.171 are deceptive and unfair trade practices
 174 under part II of this chapter and the department, the Department
 175 of Legal Affairs, or the state attorney may institute a civil
 176 action in a court of competent jurisdiction to recover any
 177 penalties, damages, and injunctive relief to enforce compliance
 178 with ss. 501.165-501.171. Each failure to provide a required
 179 disclosure constitutes a separate violation.

180 (3) The court may impose a civil penalty of up to \$1,000
 181 per violation, with an aggregate total not to exceed \$25,000 for
 182 any 24-hour period, against any online dating service provider
 183 that violates any requirement of ss. 501.165-501.171. Suit may
 184 be brought by an enforcing authority as defined in s. 501.203 or
 185 the department if the department, while acting as the
 186 clearinghouse, does not refer the matter to the Department of
 187 Legal Affairs or the state attorney. Any penalties collected
 188 shall accrue to the enforcing authority or the department's
 189 Division of Consumer Services to further consumer enforcement
 190 efforts. No private cause of action is created under ss.
 191 501.165-501.171.

192 Section 6. Section 501.171, Florida Statutes, is created
 193 to read:

194 501.171 Exclusions.--

195 (1) An Internet access service or other Internet service
 196 provider does not violate ss. 501.165-501.171 solely as a result

197 of serving as an intermediary for the transmission of
198 communications between members of an online dating service
199 provider.

200 (2) An Internet access service or other Internet service
201 provider shall not be considered an online dating service
202 provider within the meaning of ss. 501.165-501.171 as to any
203 online dating service website provided by another person or
204 entity that is not an affiliate of the Internet access service
205 or Internet service provider. As used in this subsection, the
206 term "affiliate" shall have the same meaning as provided in s.
207 607.0901.

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

211 Section 8. If any provision of this act or the application
212 thereof to any person or circumstance is held invalid, the
213 invalidity does not affect other provisions or applications of
214 this act that can be given effect without the invalid provision
215 or application, and to this end the provisions of this act are
216 declared severable.

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