

1                   A bill to be entitled  
2           An act relating to protection of minors online; defining  
3           the term "Internet access provider"; requiring providers  
4           to make available to customers in this state a product or  
5           service that enables the subscriber to regulate a minor's  
6           use of the service to access the Internet if certain  
7           conditions exist; providing requirements for such a  
8           product or service; requiring that interactive computer  
9           services take necessary steps to preserve records and  
10          evidence upon request of law enforcement agencies  
11          investigating specified crimes involving minor victims;  
12          requiring retention of such records and information for  
13          specified periods; providing for compliance without  
14          compulsory legal process in investigations of certain  
15          offenses involving minor victims involving immediate  
16          danger of death or serious bodily harm; providing for  
17          construction of provisions in a manner consistent with  
18          specified federal laws; creating s. 847.0141, F.S.;  
19          requiring interactive computer services to make certain  
20          reports when a violation of child pornography laws is  
21          evident to such service; amending s. 943.0437, F.S.;  
22          adopting a definition of "interactive computer service";  
23          authorizing the Department of Law Enforcement to provide  
24          interactive computer services certain information;  
25          providing that interactive computers services are not  
26          liable for taking or failing to take certain actions based  
27          on a registered user's association with an electronic mail

28 address or instant message name contained in certain sex  
29 offender registries; providing an effective date.

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

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33 Section 1. Internet access provider; parental controls.--

34 (1) For purposes of this section, the term "Internet  
35 access provider" means any entity which, as one of its primary  
36 business activities, provides consumers with access to the  
37 Internet. The term does not include commercial mobile radio  
38 service providers as defined in s. 364.02.

39 (2) If an Internet access provider knows or has reasonable  
40 cause to believe that a subscriber resides within this state,  
41 the provider shall make available to the subscriber a product or  
42 service that enables the subscriber to regulate a minor's use of  
43 the service to access the Internet if such a product or service  
44 is reasonably and commercially available for the technology used  
45 by the subscriber to access the Internet. The product or service  
46 must, subject to such availability, enable the subscriber to do  
47 the following:

48 (a) Block access to specific websites or domains  
49 disapproved by the subscriber.

50 (b) Restrict access to specific websites or domains deemed  
51 appropriate by the subscriber or the Internet access provider.

52 (c) Allow the subscriber to control a minor's use of the  
53 Internet remotely through the use of online capability or  
54 monitor a minor's use of the Internet by providing a report to  
55 the subscriber of the specific websites or domains that the

56 minor has visited or has attempted to visit but could not access  
57 because the websites or domains were blocked or restricted by  
58 the subscriber.

59 (3) For the purposes of subsection (2), an Internet access  
60 provider shall be deemed to know that a subscriber resides  
61 within this state if the subscriber identifies this state as his  
62 or her place of residence at the time of subscription.

63 (4) If a product or service described in subsection (2) is  
64 reasonably and commercially available for the technology used by  
65 the subscriber to access the Internet, the Internet access  
66 provider:

67 (a) Shall make available to the subscriber, at or near the  
68 time of subscription, information concerning the availability of  
69 the product or service described in subsection (2).

70 (b) May make the product or service described in  
71 subsection (2) available to the subscriber either directly or  
72 through a third-party vendor.

73 Section 2. (1) (a) An interactive computer service, as  
74 defined in s. 668.602, Florida Statutes, shall, upon the request  
75 of any law enforcement agency investigating an offense listed in  
76 s. 775.21(4)(a)1., Florida Statutes, or s. 943.0435(1)(a)1.,  
77 Florida Statutes, that involves a minor victim, take all  
78 necessary steps to preserve records and all other evidence in  
79 its possession pending issuance of a court order or other legal  
80 process. The interactive computer service shall comply with the  
81 request as soon as possible following receipt.

82 (b) Records and evidence referred to in paragraph (a)  
83 shall be retained for a period of 90 days, which shall be

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84 extended for an additional 90-day period upon a renewed request  
85 by the law enforcement agency.

86 (2) In connection with any criminal investigation  
87 regarding an offense listed in s. 775.21(4)(a)1., Florida  
88 Statutes, or s. 943.0435(1)(a)1., Florida Statutes, that  
89 involves a minor victim and that involves immediate danger of  
90 death or serious bodily harm, a law enforcement agency in this  
91 state may issue a request, without compulsory legal process or  
92 court order, to an interactive computer service to disclose,  
93 consistent with 18 U.S.C. s. 2702(c)(4), the information  
94 identified in 18 U.S.C. s. 2703(c)(2). The service shall  
95 communicate with the requesting agency to discuss the nature of  
96 the request and to coordinate an appropriate response  
97 immediately and without delay.

98 (3) Subsections (1) and (2) shall be interpreted in a  
99 manner consistent with the requirements of federal law that  
100 apply to providers of an electronic communications service,  
101 including, but not limited to, 18 U.S.C. ss. 2701 et seq. and 42  
102 U.S.C. s. 13032.

103 Section 3. Section 847.0141, Florida Statutes, is created  
104 to read:

105 847.0141 Reporting child pornography violations.--An  
106 interactive computer service, as defined s. 668.602, that is  
107 doing business in this state that obtains knowledge of facts or  
108 circumstances from which a violation of any law in this state  
109 prohibiting child pornography is apparent shall make a report,  
110 as soon as reasonably possible, of such facts or circumstances

111 to the National Center for Missing and Exploited Children  
 112 consistent with the requirements of 42 U.S.C. s. 13032.

113 Section 4. Section 943.0437, Florida Statutes, is amended  
 114 to read:

115 943.0437 Commercial social networking websites.--

116 (1) For the purpose of this section, the term:

117 (a) "Commercial social networking website" means a  
 118 commercially operated Internet website that allows users to  
 119 create web pages or profiles that provide information about  
 120 themselves and are available publicly or to other users and that  
 121 offers a mechanism for communication with other users, such as a  
 122 forum, chat room, electronic mail, or instant messenger.

123 (b) "Interactive computer service" has the same meaning as  
 124 provided in s. 668.602.

125 (2) The department may provide information relating to  
 126 electronic mail addresses and instant message names maintained  
 127 as part of the sexual offender registry to interactive computer  
 128 services, commercial social networking websites, or third  
 129 parties designated by commercial social networking websites.  
 130 Each interactive computer service and ~~The~~ commercial social  
 131 networking website may use this information for the purpose of  
 132 comparing registered users and screening potential users of its  
 133 interactive computer service or ~~the~~ commercial social networking  
 134 website against the list of electronic mail addresses and  
 135 instant message names provided by the department.

136 (3) This section shall not be construed to impose any  
 137 civil liability on an interactive computer service or a  
 138 commercial social networking website for:

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139           (a) Any action voluntarily taken in good faith to remove  
140 or disable any profile of a registered user associated with an  
141 electronic mail address or instant message name contained in the  
142 state sexual offender registry or the National Sex Offender  
143 Registry.

144           (b) Any action taken to restrict access by such registered  
145 user to an interactive computer service or a ~~the~~ commercial  
146 social networking website.

147           (c) Failing to take any action to restrict access by a  
148 registered user described in paragraph (a) to an interactive  
149 computer service or a commercial social networking website.

150           Section 5. This act shall take effect October 1, 2008.