

By Senator Storms

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20081536\_\_

1 A bill to be entitled

2 An act relating to Internet predator awareness and online  
3 safety; creating s. 501.165, F.S.; providing a short  
4 title; providing legislative findings; providing  
5 definitions; requiring certain disclosures by online  
6 dating services; providing a clearinghouse for consumers;  
7 providing civil penalties for noncompliance; providing  
8 exclusions; providing a directive to the Division of  
9 Statutory Revision; providing for severability; providing  
10 an effective date.

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

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

16 501.165 Internet Predator Awareness and Online Safety  
17 Act.--

18 (1) SHORT TITLE.--This section may be cited as the  
19 "Internet Predator Awareness and Online Safety Act."

20 (2) LEGISLATIVE FINDINGS.--

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

24 (b) The Legislature finds, as part of its duty to protect  
25 the health, safety, and welfare of its residents, that there  
26 presently exists a compelling state interest to develop a  
27 statewide uniform online safety policy that includes measures to  
28 enhance the public's awareness of the use of online dating  
29 services by predators to communicate with potential victims. The

10-02899-08

20081536\_\_

30 Legislature further finds that residents of this state need to be  
31 informed when viewing websites of online dating services as to  
32 the potential risks to personal safety associated with online  
33 dating. Also, requiring disclosures in the form of guidelines for  
34 safer dating and informing residents as to whether a criminal  
35 background screening has been conducted on members of an online  
36 dating service fulfills a compelling state interest to increase  
37 public awareness of the possible risks associated with Internet  
38 dating activities.

39 (c) The Legislature finds that the acts of transmitting  
40 over the Internet electronic dating information addressed to  
41 residents of this state and accepting membership fees from  
42 residents of this state for Internet dating services establish  
43 that an online dating service provider is operating, conducting,  
44 engaging in, and otherwise carrying on a business in this state  
45 and subject such online dating service provider to regulation by  
46 this state and to the jurisdiction of this state's courts.

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

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

51 (b) "Convicted," "conviction," or "convictions" has the  
52 same meaning as provided in s. 943.0435(1)(b). However, if an  
53 offense was committed in another jurisdiction, these terms have  
54 the same meaning as provided in that jurisdiction's equivalent  
55 statute.

56 (c) "Criminal background screening" means, at a minimum, a  
57 search for a person's felony, misdemeanor, and sexual offense  
58 convictions initiated by an online dating service provider and

10-02899-08

20081536\_\_

59 conducted by one of the following means:

60 1. By searching available and regularly updated government  
61 public record databases for felony, misdemeanor, and sexual  
62 offense convictions if such databases, in the aggregate, provide  
63 substantial national coverage for such felonies, misdemeanors,  
64 and sexual offense convictions; or

65 2. By searching a database maintained by a private vendor  
66 that is regularly updated and maintained in the United States  
67 with substantial national coverage of such felonies,  
68 misdemeanors, and sexual offense convictions.

69 (d) "Department" means the Department of Agriculture and  
70 Consumer Services.

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

75 (f) "Florida member" means a member as defined in this  
76 section who provides a billing address located in Florida with  
77 zip code and other required billing information when registering  
78 with the provider.

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

84 (h) "Misdemeanor" has the same meaning as provided in s.  
85 775.08. However, if an offense was committed in another  
86 jurisdiction, the term has the same meaning as provided in that  
87 jurisdiction's equivalent statute.

10-02899-08

20081536\_\_

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

92        (j) "Sexual offense conviction" means a conviction for an  
93 offense that would qualify the offender for registration as a  
94 sexual offender under s. 943.0435. However, if an offense was  
95 committed in another jurisdiction, the term has the same meaning  
96 as provided in that jurisdiction's equivalent statute.

97        (4) PROVIDER SAFETY AWARENESS DISCLOSURES.--

98        (a) An online dating service provider offering services to  
99 members in Florida shall provide a safety-awareness notification  
100 containing, at a minimum, information that includes a list and  
101 description of safety measures reasonably designed to increase  
102 awareness of safer dating practices as determined by the  
103 provider. Examples of such notifications include:

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

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

108        3. "Never include your last name, e-mail address, home  
109 address, phone number, place of work, or any other identifying  
110 information in your online profile or initial e-mail messages.  
111 Stop communicating with anyone who pressures you for personal or  
112 financial information or attempts in any way to trick you into  
113 revealing it."

114        4. "If you choose to have a face-to-face meeting with  
115 another member, always tell a family member or a friend where you  
116 are going and when you will return. Never agree to be picked up

10-02899-08

20081536\_\_

117 at your home. Always provide your own transportation to and from  
118 your date and meet in a public place at a time with many people  
119 around."

120 (b) If an online dating service provider does not conduct  
121 criminal background screenings on its communicating members, the  
122 provider shall disclose, clearly and conspicuously, to all  
123 Florida members that the online dating service provider does not  
124 conduct criminal background screenings. The disclosure shall be  
125 provided, at a minimum, as a hyperlink titled "Safety Tips" from  
126 the profile pages describing a member to a Florida member and  
127 within the provider's terms and conditions contained on the  
128 website pages used when a member registers as a Florida member or  
129 changes his or her registration to become a Florida member and on  
130 the confirmation e-mail sent when a Florida member completes  
131 registration or a change of registration.

132 (c) If an online dating service provider conducts criminal  
133 background screenings on all of its communicating members, the  
134 provider shall disclose, clearly and conspicuously, to all  
135 Florida members that the online dating service provider conducts  
136 a criminal background screening on each member prior to  
137 permitting a Florida member to communicate with another member.  
138 Additionally, the provider shall disclose, clearly and  
139 conspicuously, to all Florida members whether a member who has  
140 been identified as having a felony, misdemeanor, or sexual  
141 offense conviction is allowed to communicate with any Florida  
142 member. The provider shall also disclose, clearly and  
143 conspicuously, that background screenings of applicants can be  
144 fallible and there is no way to guarantee that the name provided  
145 by a person to be used in a background screening is the person's

10-02899-08

20081536\_\_

146 true identity; that not all criminal records are publicly  
147 available; and that the screenings may not identify every member  
148 who has a felony, misdemeanor, or sexual offense conviction and  
149 members should participate in the service at their own risk,  
150 using caution when communicating with other members. The  
151 disclosures under this subsection shall be provided, at a  
152 minimum, as a hyperlink titled "Safety Tips" from the profile  
153 pages describing a member to a Florida member and within the  
154 provider's terms and conditions contained on the website pages  
155 used when a member registers as a Florida member or changes his  
156 or her registration to become a Florida member and on the  
157 confirmation e-mail sent when a Florida member completes  
158 registration or a change of registration.

159 (d) To address any concerns that the criminal background  
160 screenings used by a provider may create a false sense of  
161 security, and to allow Florida members to better evaluate and  
162 compare the extent and scope of any criminal background  
163 screenings conducted by a provider, the disclosures under  
164 paragraph (c) shall be immediately followed by a clear and  
165 conspicuous hyperlink labeled "Details about our Criminal  
166 Background Screenings." This hyperlink shall provide Florida  
167 members with access to a web page containing a supplemental  
168 disclosure that includes, at a minimum, the name of any private  
169 vendor used by the provider for conducting criminal background  
170 screenings of felony, misdemeanor, and sexual offense  
171 convictions, the frequency with which the database of felony,  
172 misdemeanor, and sexual offense criminal convictions used by the  
173 provider or private vendor is updated, a listing of each state  
174 that is included and excluded, along with any limitations or

10-02899-08

20081536\_\_

175 restrictions on access to the felony, misdemeanor, and sexual  
176 offense criminal conviction data available from a state, and  
177 whether, in addition to felonies, misdemeanors, and sexual  
178 offenses, any other types or categories of criminal convictions  
179 are included for each state in the database used by the provider  
180 or private vendor.

181 (5) CLEARINGHOUSE.--The department shall serve as the  
182 clearinghouse for intake of information concerning this section  
183 from consumers, residents, and victims. The consumer hotline may  
184 be used for this purpose. Information obtained shall be directed  
185 to the appropriate enforcement entity, as determined by the  
186 department.

187 (6) CIVIL PENALTIES.--

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

190 (b) Acts, conduct, practices, omissions, failings,  
191 misrepresentations, or nondisclosures committed in violation of  
192 this section constitute deceptive and unfair trade practices  
193 under part II of this chapter and the department, the Department  
194 of Legal Affairs, or the state attorney may institute a civil  
195 action in a court of competent jurisdiction to recover any  
196 penalties, damages, or injunctive relief to enforce compliance  
197 with this section. Each failure to provide a required disclosure  
198 constitutes a separate violation.

199 (c) The court may impose a civil penalty of up to \$1,000  
200 per violation, with an aggregate total not to exceed \$25,000 for  
201 any 24-hour period, against any online dating service provider  
202 that violates any requirement of this section. A lawsuit may be  
203 brought by an enforcing authority as defined in s. 501.203 or the

10-02899-08

20081536\_\_

204 department if the department, while acting as the clearinghouse,  
205 does not refer the matter to the Department of Legal Affairs or  
206 the state attorney. Any penalties collected shall accrue to the  
207 enforcing authority or the department's Division of Consumer  
208 Services for further consumer enforcement efforts. A private  
209 cause of action is not created under this section.

210 (7) EXCLUSIONS.--

211 (a) An Internet access service or other Internet service  
212 provider does not violate this section solely as a result of  
213 servicing as an intermediary for the transmission of communications  
214 between members of an online dating service provider.

215 (b) An Internet access service or other Internet service  
216 provider is not an online dating service provider within the  
217 meaning of this section as to any online dating service website  
218 provided by another person or entity that is not affiliated with  
219 the Internet access service or Internet service provider.

220 "Affiliate" or "affiliated" has the same meaning as provided in  
221 s. 607.0901.

222 (c) This section does not create a cause of action against  
223 an Internet access service, an Internet service provider, or a  
224 telecommunications provider whose equipment or network is used to  
225 transport or handle the transmission of a communication by any  
226 person.

227 Section 2. The Division of Statutory Revision is directed  
228 to include the provisions of this section in part I of chapter  
229 501, Florida Statutes.

230 Section 3. If any provision of this act or its application  
231 to any individual or circumstance is held invalid, such  
232 invalidity does not affect other provisions or applications of



10-02899-08

20081536\_\_

233 which act that can be given effect without the invalid provision  
234 or application, and to this end the provisions of this act are  
235 severable.

236 Section 4. This act shall take effect July 1, 2008.