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CHAMBER ACTION

Senate

House

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Floor: WD/2R
4/29/2008 10:24 AM



1 Senator Fasano moved the following amendment:

3 Senate Amendment (with title amendment)

4 Between lines 473 and 474,

5 insert:

6 Section 8. Internet access provider; parental controls.--

7 (1) For purposes of this section, the term "Internet access
8 provider" means any entity that, as one of its primary business
9 activities, provides consumers with access to the Internet. The
10 term does not include commercial mobile radio service providers,
11 as defined in s. 364.02, Florida Statutes.

12 (2) If an Internet access provider knows or has reasonable
13 cause to believe that a subscriber resides within this state, the
14 provider shall make available to the subscriber a product or
15 service that enables the subscriber to regulate a minor's use of
16 the service to access the Internet if such a product or service
17 is reasonably and commercially available for the technology used



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18 by the subscriber to access the Internet. The product or service
19 must, subject to such availability, enable the subscriber to do
20 the following:

21 (a) Block access to specific websites or domains
22 disapproved by the subscriber.

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

25 (c) Allow the subscriber to control a minor's use of the
26 Internet remotely through the use of online capability or monitor
27 a minor's use of the Internet by providing a report to the
28 subscriber of the specific websites or domains that the minor has
29 visited or has attempted to visit but could not access because
30 the websites or domains were blocked or restricted by the
31 subscriber.

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

36 (4) If a product or service described in subsection (2) is
37 reasonably and commercially available for the technology used by
38 the subscriber to access the Internet, the Internet access
39 provider:

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

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

46 Section 9. (1)(a) An interactive computer service, as
47 defined in s. 668.602, Florida Statutes, shall, upon the request

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48 of any law enforcement agency investigating an offense listed in
49 s. 775.21(4)(a)1., Florida Statutes, or s. 943.0435(1)(a)1.,
50 Florida Statutes, which involves a minor victim, take all
51 necessary steps to preserve records and all other evidence in its
52 possession pending issuance of a court order or other legal
53 process. The interactive computer service shall comply with the
54 request as soon as possible following receipt.

55 (b) Records and evidence referred to in paragraph (a) shall
56 be retained for a period of 90 days, which shall be extended for
57 an additional 90-day period upon a renewed request by the law
58 enforcement agency.

59 (2) In connection with any criminal investigation regarding
60 an offense listed in s. 775.21(4)(a)1., Florida Statutes, or s.
61 943.0435(1)(a)1., Florida Statutes, which involves a minor victim
62 and which involves immediate danger of death or serious bodily
63 harm, a law enforcement agency in this state may issue a request,
64 without compulsory legal process or court order, to an
65 interactive computer service to disclose, consistent with 18
66 U.S.C. s. 2702(c)(4), the information identified in 18 U.S.C. s.
67 2703(c)(2). The service shall communicate with the requesting
68 agency to discuss the nature of the request and to coordinate an
69 appropriate response immediately and without delay.

70 (3) Subsections (1) and (2) shall be interpreted in a
71 manner consistent with the requirements of federal law which
72 apply to providers of an electronic communications service,
73 including, but not limited to, 18 U.S.C. ss. 2701 et seq. and 42
74 U.S.C. s. 13032.

75 Section 10. Section 847.0141, Florida Statutes, is created
76 to read:

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77 847.0141 Reporting child pornography violations.--An
78 interactive computer service, as defined s. 668.602, which is
79 doing business in this state and which obtains knowledge of facts
80 or circumstances from which a violation of any law in this state
81 prohibiting child pornography is apparent shall make a report, as
82 soon as reasonably possible, of such facts or circumstances to
83 the National Center for Missing and Exploited Children consistent
84 with the requirements of 42 U.S.C. s. 13032.

85 Section 11. Section 943.0437, Florida Statutes, is amended
86 to read:

87 943.0437 Commercial social networking websites.--

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

89 (a) "Commercial social networking website" means a
90 commercially operated Internet website that allows users to
91 create web pages or profiles that provide information about
92 themselves and are available publicly or to other users and that
93 offers a mechanism for communication with other users, such as a
94 forum, chat room, electronic mail, or instant messenger.

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

97 (2) The department may provide information relating to
98 electronic mail addresses and instant message names maintained as
99 part of the sexual offender registry to interactive computer
100 services, commercial social networking websites, or third parties
101 designated by commercial social networking websites. Each
102 interactive computer service and ~~The~~ commercial social networking
103 website may use this information for the purpose of comparing
104 registered users and screening potential users of its interactive
105 computer service or ~~the~~ commercial social networking website

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106 against the list of electronic mail addresses and instant message
107 names provided by the department.

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

111 (a) Any action voluntarily taken in good faith to remove or
112 disable any profile of a registered user associated with an
113 electronic mail address or instant message name contained in the
114 state sexual offender registry or the National Sex Offender
115 Registry.

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

119 (c) Failing to take any action to restrict access by a
120 registered user described in paragraph (a) to an interactive
121 computer service or a commercial social networking website.
122

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

124 And the title is amended as follows:

125 On line 32, after the semicolon,
126 insert:

127 defining the term "Internet access provider"; requiring
128 providers to make available to customers in this state
129 a product or service that enables the subscriber to
130 regulate a minor's use of the service to access the
131 Internet if certain conditions exist; providing
132 requirements for such a product or service; requiring
133 that interactive computer services take necessary steps
134 to preserve records and evidence upon request of law
135 enforcement agencies investigating specified crimes

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136 involving minor victims; requiring retention of such
137 records and information for specified periods;
138 providing for compliance without compulsory legal
139 process in investigations of certain offenses involving
140 minor victims and involving immediate danger of death
141 or serious bodily harm; providing for construction of
142 provisions in a manner consistent with specified
143 federal laws; creating s. 847.0141, F.S.; requiring
144 interactive computer services to make certain reports
145 when a violation of child pornography laws is evident
146 to such service; amending s. 943.0437, F.S.; adopting a
147 definition of "interactive computer service";
148 authorizing the Department of Law Enforcement to
149 provide interactive computer services with certain
150 information; providing that interactive computer
151 services are not liable for taking or failing to take
152 certain actions based on a registered user's
153 association with an electronic mail address or instant
154 message name contained in certain sex offender
155 registries;