

By Senator Fasano

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

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30 instant message name contained in certain sex offender  
31 registries; providing an effective date.  
32

33 Be It Enacted by the Legislature of the State of Florida:  
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35 Section 1. Internet access provider; parental controls.-

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

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

50 (a) Block access to specific websites or domains  
51 disapproved by the subscriber.

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

54 (c) Allow the subscriber to control a minor's use of the  
55 Internet remotely through the use of online capability or  
56 monitor a minor's use of the Internet by providing a report to  
57 the subscriber of the specific websites or domains that the  
58 minor has visited or has attempted to visit but could not access

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59 because the websites or domains were blocked or restricted by  
60 the subscriber.

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

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

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

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

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

85 (b) Records and evidence referred to in paragraph (a) must  
86 be retained for 90 days, which shall be extended for an  
87 additional 90-day period upon a renewed request by the law

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88 enforcement agency.

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

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

105 Section 3. Section 847.1041, Florida Statutes, is created  
106 to read:

107 847.0141 Reporting child pornography violations.—An  
108 interactive computer service, as defined s. 668.602, which is  
109 doing business in this state and obtains knowledge of facts or  
110 circumstances from which a violation of any law in this state  
111 prohibiting child pornography is apparent shall make a report,  
112 as soon as reasonably possible, of such facts or circumstances  
113 to the National Center for Missing and Exploited Children  
114 consistent with the requirements of 42 U.S.C. s. 13032.

115 Section 4. Section 943.0437, Florida Statutes, is amended  
116 to read:

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117 943.0437 Commercial social networking websites.-

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

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

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

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

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

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

145 (b) Any action taken to restrict access by the ~~such~~

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146 registered user to an interactive computer service or a ~~the~~  
147 commercial social networking website.

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

151 Section 5. This act shall take effect October 1, 2009.