



AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—119th Cong., 1st Sess.

S. 841

To require online dating service providers to provide fraud ban notifications to online dating service members, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mrs. BLACKBURN

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the “Romance Scam Pre-
- 5 vention Act”.
- 6 **SEC. 2. ROMANCE SCAM PREVENTION.**
- 7 (a) FRAUD BAN NOTIFICATION.—
- 8 (1) IN GENERAL.—An online dating service pro-
- 9 vider shall provide to a member of the online dating
- 10 service a fraud ban notification if the member has

1 received a message through the online dating service
2 from a banned member of the online dating service.

3 (2) REQUIRED CONTENTS.—A fraud ban notifi-
4 cation under paragraph (1) shall include the fol-
5 lowing:

6 (A) The username or other profile identi-
7 fier of the banned member, as well as the most
8 recent time when the member to whom the noti-
9 fication is being provided sent or received a
10 message through the online dating service to or
11 from the banned member.

12 (B) A statement, as applicable, that the
13 banned member identified in subparagraph (A)
14 may have been using a false identity or at-
15 tempting to defraud members.

16 (C) A statement that a member should not
17 send cash or another form of currency or per-
18 sonal financial information to another member.

19 (D) Information regarding best practices
20 to avoid online fraud or being defrauded by a
21 member of an online dating service, which may
22 be provided through a link to another web page
23 or disclosure.

1 (E) Contact information to reach the cus-
2 tomer service department of the online dating
3 service provider.

4 (3) MANNER AND TIMING.—

5 (A) MANNER.—A fraud ban notification
6 under paragraph (1) shall be—

7 (i) clear and conspicuous; and

8 (ii) provided by email, text message,
9 or, if consented to by the member receiving
10 the fraud ban notification, other appro-
11 priate means of communication.

12 (B) TIMING.—

13 (i) IN GENERAL.—Except as provided
14 in clauses (ii) and (iii), an online dating
15 service provider shall provide a fraud ban
16 notification under paragraph (1) not later
17 than 24 hours after the fraud ban is initi-
18 ated against the banned member.

19 (ii) DELAY BASED ON JUDGMENT OF
20 PROVIDER.—If, in the judgment of the on-
21 line dating service provider, the cir-
22 cumstances require a fraud ban notifica-
23 tion under paragraph (1) to be provided
24 after the 24-hour period described in
25 clause (i), the online dating service pro-

1 vider shall, except as provided in clause
2 (iii), provide the notification not later than
3 3 days after the day on which the fraud
4 ban is initiated against the banned mem-
5 ber.

6 (iii) DELAY UPON REQUEST OF LAW
7 ENFORCEMENT OFFICIAL.—If, due to an
8 ongoing investigation, a law enforcement
9 official requests an online dating service
10 provider to delay providing a fraud ban no-
11 tification under paragraph (1) beyond the
12 time when the notification is required to be
13 provided under clause (i) or (ii), the online
14 dating service provider—

15 (I) may not provide the notifica-
16 tion before the end of the period of
17 delay (including any extension of such
18 period) requested by the law enforce-
19 ment official; and

20 (II) shall provide the notification
21 not later than 3 days after the last
22 day of the period of delay (including
23 any extension of such period) re-
24 quested by the law enforcement offi-
25 cial.

1 (4) SAFE HARBOR APPLICABILITY.—An online
2 dating service provider is not liable to a member, a
3 banned member, or a former member for a claim
4 based on an online ^{dating} service provider's action to com-
5 ply with the requirements for providing a fraud ban
6 notification under this subsection.

7 (b) ENFORCEMENT.—

8 (1) ENFORCEMENT BY THE COMMISSION.—

9 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-
10 TICES.—A violation of this section or a regula-
11 tion promulgated under this section shall be
12 treated as a violation of a rule defining an un-
13 fair or deceptive act or practice under section
14 18(a)(1)(B) of the Federal Trade Commission
15 Act (15 U.S.C. 57a(a)(1)(B)).

16 (B) POWERS OF COMMISSION.—

17 (i) IN GENERAL.—The Commission
18 shall enforce this section in the same man-
19 ner, by the same means, and with the
20 same jurisdiction, powers, and duties as
21 though all applicable terms and provisions
22 of the Federal Trade Commission Act (15
23 U.S.C. 41 et seq.) were incorporated into
24 and made a part of this section,

1 (ii) PRIVILEGES AND IMMUNITIES.—

2 Any person who violates this section shall
3 be subject to the penalties and entitled to
4 the privileges and immunities provided in
5 the Federal Trade Commission Act.

6 (iii) AUTHORITY PRESERVED.—Noth-
7 ing in this section may be construed to
8 limit the authority of the Commission
9 under any other provision of law.

10 (2) ENFORCEMENT BY STATES.—

11 (A) IN GENERAL.—Subject to subpara-
12 graph (B), in any case in which the attorney
13 general of a State has reason to believe that an
14 interest of the residents of the State has been
15 or is threatened or adversely affected by the en-
16 gagement of any person in an act or practice
17 that violates this section, the attorney general
18 of the State may, as *parens patriae*, bring a
19 civil action on behalf of the residents of the
20 State in an appropriate district court of the
21 United States to obtain appropriate relief.

22 (B) RIGHTS OF THE COMMISSION.—

23 (i) NOTICE TO THE COMMISSION.—

24 (I) IN GENERAL.—Except as pro-
25 vided in subclause (III), before initi-

1 ating a civil action under subpara-
2 graph (A), the attorney general of a
3 State shall notify the Commission in
4 writing that the attorney general in-
5 tends to bring such civil action.

6 (II) CONTENTS.—The notifica-
7 tion required by subclause (I) shall in-
8 clude a copy of the complaint to be
9 filed to initiate the civil action.

10 (III) EXCEPTION.—If it is not
11 feasible for the attorney general of a
12 State to provide the notification re-
13 quired by subclause (I) before initi-
14 ating a civil action under subpara-
15 graph (A), the attorney general shall
16 notify the Commission immediately
17 upon instituting the civil action.

18 (ii) INTERVENTION BY THE COMMIS-
19 SION.—Upon receiving the notice required
20 by clause (i)(I), the Commission may inter-
21 vene in the civil action and, upon inter-
22 vening—

23 (I) be heard on all matters aris-
24 ing in the civil action; and

1 (II) file petitions for appeal of a
2 decision in the civil action.

3 (C) LIMITATION ON STATE ACTION WHILE
4 FEDERAL ACTION IS PENDING.—If the Commis-
5 sion has instituted a civil action for a violation
6 of this section or a regulation promulgated
7 under this section, no attorney general of a
8 State may bring an action under subparagraph
9 (A) during the pendency of that action against
10 any defendant named in the complaint of the
11 Commission for any violation of this section or
12 a regulation promulgated under this section al-
13 leged in the complaint.

14 (D) RULE OF CONSTRUCTION.—For pur-
15 poses of bringing a civil action under this sub-
16 section, nothing in this subsection may be con-
17 strued to prevent the attorney general of a
18 State from exercising the powers conferred on
19 the attorney general by the laws of the State to
20 conduct investigations, to administer oaths or
21 affirmations, or to compel the attendance of
22 witnesses or the production of documentary or
23 other evidence.

24 (E) ACTIONS BY OTHER STATE OFFI-
25 CIALS.—In addition to a civil action brought by

1 an attorney general under subparagraph (A),
2 any other consumer protection officer of a State
3 who is authorized by the State to do so may
4 bring a civil action under subparagraph (A),
5 subject to the same requirements and limita-
6 tions that apply under this paragraph to a civil
7 action brought by an attorney general.

8 (c) ONE NATIONAL STANDARD.—

9 (1) IN GENERAL.—A State, or political subdivi-
10 sion thereof, may not maintain, enforce, prescribe,
11 or continue in effect a provision of any law, rule,
12 regulation, requirement, or standard having the
13 force and effect of law of the State, or political sub-
14 division of the State, that requires an online dating
15 service provider to notify, prohibits an online dating
16 service provider from notifying, or otherwise affects
17 the manner in which an online dating service pro-
18 vider is required or permitted to notify, a member
19 of the online dating service that the member has re-
20 ceived a message from or sent a message to a mem-
21 ber whose account or profile on the online dating
22 service is the subject of a fraud ban through the on-
23 line dating service.

24 (2) RULE OF CONSTRUCTION.—This subsection
25 may not be construed to preempt any law of a State

1 or political subdivision of a State relating to con-
2 tracts or torts.

3 (d) DEFINITIONS.—In this section:

4 (1) BANNED MEMBER.—The term “banned
5 member” means a member of an online dating serv-
6 ice whose account or profile on the online dating
7 service is the subject of a fraud ban.

8 (2) COMMISSION.—The term “Commission”
9 means the Federal Trade Commission.

10 (3) FRAUD BAN.—The term “fraud ban” means
11 the termination or suspension of the account or pro-
12 file of a member of an online dating service because,
13 in the judgment of the online dating service pro-
14 vider, there is a significant risk the member will at-
15 tempt to obtain cash or another form of currency
16 from another member through fraudulent means.

17 (4) MEMBER.—The term “member” means an
18 individual who—

19 (A) submits to an online dating service
20 provider the information required by the pro-
21 vider to establish an account or profile on the
22 online dating service; and

23 (B) is allowed by the provider to establish
24 such an account or profile.

1 (5) ONLINE DATING SERVICE.—The term “on-
2 line dating service” means a service that—

3 (A) is provided through a website or a mo-
4 bile application; and

5 (B) offers members access to dating or ro-
6 mantic relationships with other members by ar-
7 ranging or facilitating the social introduction of
8 members.

9 (6) ONLINE DATING SERVICE PROVIDER.—The
10 term “online dating service provider” means a per-
11 son engaged in the business of offering an online
12 dating service.

13 (7) STATE.—The term “State” means each
14 State of the United States, the District of Columbia,
15 each commonwealth, territory, or possession of the
16 United States, and each federally recognized Indian
17 Tribe.

18 (e) EFFECTIVE DATE.—This section shall take effect
19 on the date that is 1 year after the date of the enactment
20 of this Act.