



Sen. John J. Cullerton

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09400HB5299sam002

LRB094 15758 LCT 57800 a

1 AMENDMENT TO HOUSE BILL 5299

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5299, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the  
6 Internet Dating Disclosure and Safety Awareness Act.

7 Section 5. Definitions. As used in this Act:

8 "Communicate" or "communicating" means free-form text  
9 authored by a member or real-time voice communication through  
10 an online dating service provider.

11 "Criminal background check" means a search for a person's  
12 felony and sex offense convictions initiated by an online  
13 dating service provider conducted through one of the means  
14 provided for in Section 10 of this Act.

15 "Member" means a person who submits to an online dating  
16 service provider the information required by the provider to  
17 access the provider's service for the purpose of engaging in  
18 dating, participating in compatibility evaluations with other  
19 persons, or obtaining matrimonial matching services.

20 "Online dating service provider" or "provider" means a  
21 person engaged in the business of offering or providing to its  
22 members for a fee access to dating, compatibility evaluations  
23 between persons, or matrimonial matching services through the  
24 Internet.

1 "Sex offense conviction" means a conviction for an offense  
2 that would qualify the offender for registration as a sex  
3 offender pursuant to the Sex Offender Registration Act or under  
4 another state's equivalent statute.

5 Section 10. Criminal background check. For purposes of this  
6 Act, a criminal background check shall be conducted through one  
7 of the following means:

8 (1) by searching available and regularly updated  
9 government public record databases for felony and sex  
10 offense convictions so long as the databases, in the  
11 aggregate, provide substantially national coverage; or

12 (2) by searching a database maintained by a private  
13 vendor whose database contains more than 170,000,000  
14 criminal records that are otherwise available to the  
15 public, has substantially national coverage, is updated at  
16 least every 30 days, is operated and maintained in the  
17 United States, and contains at least the same or  
18 substantially similar criminal history records as would be  
19 otherwise accessible through searches of all publicly  
20 available government databases specified in item (1) of  
21 this Section.

22 Section 15. Criminal background check; disclosures.

23 (a) An online dating service provider offering services to  
24 residents of this State shall disclose clearly and  
25 conspicuously, to any member who provides a billing address or  
26 a zip code in this State when registering with the provider,  
27 that the online dating provider either initiates a background  
28 check of felony and sex offense convictions on each member  
29 prior to permitting any member to communicate with a member in  
30 this State or that the online dating service provider does not  
31 initiate such a background check.

32 (b) If the online dating service provider does not initiate

1 criminal background checks, the provider must make a disclosure  
2 that shall read:

3 "NO BACKGROUND CHECK OF FELONY OR SEX OFFENSE  
4 CONVICTIONS IS DONE ON MEMBERS WHO USE THIS SERVICE. PLEASE  
5 TAKE APPROPRIATE SAFETY MEASURES TO INCREASE AWARENESS OF  
6 POSSIBLE RISKS ASSOCIATED WITH DATING."

7 (c) The disclosure required by subsection (b) of this  
8 Section shall appear on a web page required to be viewed by a  
9 person applying to be a member who has indicated a billing  
10 address or zip code in this State in the registration process.  
11 The disclosure cannot be more than 3 inches from the top of the  
12 web page and must be:

- 13 (1) in bold capital letters;  
14 (2) in at least 12 point type; and  
15 (3) in a color that contrasts from the background.

16 The provider shall require the applicant in this State to  
17 make an electronic acknowledgement that the applicant has been  
18 provided the disclosure before the applicant is accepted as a  
19 member. The disclosure required by subsection (b) of this  
20 Section shall additionally appear on any page that appears to a  
21 member in this State each time that member initiates or  
22 receives a communication with another member through the  
23 provider's service.

24 (d) If the online dating service provider conducts criminal  
25 background checks and the provider has a policy allowing a  
26 member who has been identified as having a felony or sex  
27 offense conviction to have access to its service to communicate  
28 with any member in this State, the provider shall clearly and  
29 conspicuously disclose on any communication to a member in this  
30 State from the member who has been identified as having a  
31 felony or sex offense conviction, and on any web page that is  
32 seen by or transmitted to a member in this State that contains  
33 the personal information for the member who has been identified  
34 as having a felony or sex offense conviction and that is seen

1 by or communicated to a member in this State, a disclosure that  
2 shall read:

3 "THIS PERSON HAS BEEN IDENTIFIED AS HAVING A FELONY OR  
4 SEX OFFENSE CONVICTION."

5 Section 20. Provider policies; disclosure. An online  
6 dating service provider that conducts criminal background  
7 checks shall establish an automatic electronic link to a web  
8 page that provides a safety awareness notification. At a  
9 minimum, the safety awareness notification shall provide the  
10 following:

11 (1) A statement that reads:

12 "PERSONAL SAFETY AWARENESS NOTICE CAUTION: Before  
13 allowing Illinois members to communicate with other  
14 members . . . [Name of provider] . . . initiates a  
15 background check of available public records to  
16 determine if any felony or sex offense convictions are  
17 identified based on the name and other information we  
18 require of members to create a profile. The purpose is  
19 to provide a preliminary background screening for the  
20 increased protection of our members before they are  
21 permitted to begin communicating directly with each  
22 other.

23 The background checks for felony and sex offense  
24 convictions are not foolproof and are not intended to  
25 give members a false sense of security. Background  
26 checks are not a perfect safety solution and criminals  
27 may circumvent even the most sophisticated search  
28 technology.

29 Not all criminal records are public in all states  
30 and not all databases are up-to-date. Only  
31 commercially available felony and sex offense  
32 convictions are included in the background check, but  
33 background checks do not cover other convictions or

1           arrests or any convictions from foreign countries.

2           Anyone who is able to commit identity theft can  
3           also falsify a dating profile.

4           There is no substitute for using good common sense  
5           and acting with caution when communicating with any  
6           stranger who wants to meet you."

7           (2) A list and description of safety measures  
8           reasonably designed to increase awareness of safer dating  
9           practices as determined by the provider.

10          Section 25. Application. Any online dating service  
11          provider that signs up members from Illinois must comply with  
12          the provisions of this Act.

13          Section 30. Unfair business practice. Failure to comply  
14          with the disclosure requirements of this Act shall constitute  
15          an unlawful business practice under the Consumer Fraud and  
16          Deceptive Business Practices Act. Each failure to provide the  
17          required disclosure constitutes a separate violation.

18          Section 35. Civil penalties. In addition to the remedy  
19          provided in this Act or the Consumer Fraud and Deceptive  
20          Business Practices Act, the Attorney General may bring an  
21          action and the court may impose a civil penalty of up to \$1,000  
22          per violation, with an aggregate total not to exceed \$25,000  
23          for any 24-hour period, against any online dating service  
24          provider who violates any requirement of this Act.

25          Section 40. Internet Dating Disclosure and Safety  
26          Awareness Act Fund. There is hereby created the Internet Dating  
27          Disclosure and Safety Awareness Act Fund as a special fund in  
28          the State Treasury. All civil monetary penalties imposed as a  
29          result of any action filed under this Act shall be deposited  
30          into the Fund. Monies in the Fund shall be allocated, subject

1 to appropriation, to the Office of the Attorney General for  
2 enforcement of this Act.

3 Section 45. Exemptions.

4 (a) An Internet service provider does not violate this Act  
5 solely as a result of serving as an intermediary for the  
6 transmission of electronic messages between members of an  
7 online dating service provider.

8 (b) An Internet access service or other Internet service  
9 provider shall not be considered an online dating service  
10 provider within the meaning of this Act as to any online dating  
11 service website provided by another person or entity.

12 (c) An Internet service provider that has fewer than 1,000  
13 members is exempt from the requirements of this Act.

14 Section 50. Severability. If any provision of this Act or  
15 its application to any person or circumstance is held invalid,  
16 the invalidity of that provision or application does not affect  
17 other provisions or applications of this Act that can be given  
18 effect without the invalid provision or application.

19 Section 300. The State Finance Act is amended by adding  
20 Section 5.663 as follows:

21 (30 ILCS 105/5.663 new)

22 Sec. 5.663. The Internet Dating Disclosure and Safety  
23 Awareness Act Fund.

24 Section 500. The Consumer Fraud and Deceptive Business  
25 Practices Act is amended by changing Section 2Z as follows:

26 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

27 Sec. 2Z. Violations of other Acts. Any person who knowingly  
28 violates the Automotive Repair Act, the Automotive Collision

1 Repair Act, the Home Repair and Remodeling Act, the Dance  
2 Studio Act, the Physical Fitness Services Act, the Hearing  
3 Instrument Consumer Protection Act, the Illinois Union Label  
4 Act, the Job Referral and Job Listing Services Consumer  
5 Protection Act, the Travel Promotion Consumer Protection Act,  
6 the Credit Services Organizations Act, the Automatic Telephone  
7 Dialers Act, the Pay-Per-Call Services Consumer Protection  
8 Act, the Telephone Solicitations Act, the Illinois Funeral or  
9 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic  
10 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home  
11 Loan Act, the Payday Loan Reform Act, subsection (a) or (b) of  
12 Section 3-10 of the Cigarette Tax Act, the Payday Loan Reform  
13 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use  
14 Tax Act, the Electronic Mail Act, paragraph (6) of subsection  
15 (k) of Section 6-305 of the Illinois Vehicle Code, the Internet  
16 Dating Disclosure and Safety Awareness Act, Article 3 of the  
17 Residential Real Property Disclosure Act, the Automatic  
18 Contract Renewal Act, or the Personal Information Protection  
19 Act commits an unlawful practice within the meaning of this  
20 Act.

21 (Source: P.A. 93-561, eff. 1-1-04; 93-950, eff. 1-1-05; 94-13,  
22 eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292,  
23 eff. 1-1-06; revised 8-19-05.)".