



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0563

Introduced 2/5/2007, by Rep. John E. Bradley

SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 105/5.675 new

815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Creates the Internet Dating Disclosure and Safety Awareness Act. Requires an online dating service provider offering services to residents of this State to disclose clearly and conspicuously, to any member who provides a billing address or a zip code in this State when registering with the provider, that the online dating provider either initiates a background check of felony and sex offense convictions on each member prior to permitting any member to communicate with a member in this State or that the online dating service provider does not initiate such a background check. Provides language concerning the disclosures. Requires that an online dating service provider that conducts criminal background checks to post a safety awareness notification and provides required language for that notification. Provides that failure to comply with the disclosure requirements of the Act shall constitute an unlawful business practice under the Consumer Fraud and Deceptive Business Practices Act. Provides that each failure to provide the required disclosure constitutes a separate violation. Provides for civil penalties. Creates the Internet Dating Disclosure and Safety Awareness Act Fund to be used by the Office of the Attorney General for enforcement of the Act. Amends the State Finance Act to create the Internet Dating Disclosure and Safety Awareness Act Fund. Amends the Consumer Fraud and Deceptive Business Practices Act. Adds the Internet Dating Disclosure and Safety Awareness Act to the list of Acts that the knowing violation of which constitutes an unlawful business practice.

LRB095 07951 LCT 28113 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning businesses.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

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

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

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

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

19 "Online dating service provider" or "provider" means a
20 person engaged in the business of offering or providing to its
21 members for a fee access to dating, compatibility evaluations
22 between persons, or matrimonial matching services through the
23 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 public,
15 has substantially national coverage, is updated at least
16 every 30 days, is operated and maintained in the United
17 States, and contains at least the same or substantially
18 similar criminal history records as would be otherwise
19 accessible through searches of all the available
20 government databases specified in item (1) of this Section.

21 Section 15. Criminal background check; disclosures.

22 (a) An online dating service provider offering services to
23 residents of this State shall disclose clearly and
24 conspicuously, to any member who provides a billing address or

1 a zip code in this State when registering with the provider,
2 that the online dating provider either initiates a background
3 check of felony and sex offense convictions on each member
4 prior to permitting any member to communicate with a member in
5 this State or that the online dating service provider does not
6 initiate such a background check.

7 (b) If the online dating service provider does not initiate
8 criminal background checks, the provider must make a disclosure
9 that shall read:

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

14 (c) If the online dating service provider does initiate
15 criminal background checks, the disclosure shall read:

16 ". (NAME OF PROVIDER) INITIATES
17 A LIMITED BACKGROUND CHECK FOR FELONY AND SEX OFFENSE
18 CONVICTIONS BEFORE A MEMBER IS PERMITTED TO COMMUNICATE
19 WITH ANY MEMBER FROM ILLINOIS."

20 (d) The disclosure required by either subsection (b) or
21 subsection (c) of this Section shall appear on a web page
22 required to be viewed by a person applying to be a member who
23 has indicated a billing address or zip code in this State in
24 the registration process. The disclosure cannot be more than 3
25 inches from the top of the web page and must be:

26 (1) in bold capital letters;

1 (2) in at least 12 point type; and

2 (3) in a color that contrasts from the background.

3 The provider shall require the applicant in this State to
4 make an electronic acknowledgement that the applicant has been
5 provided the disclosure before the applicant is accepted as a
6 member. The disclosure required by either subsection (b) or
7 subsection (c) of this Section shall additionally appear on any
8 page that appears to a member in this State each time that
9 member initiates or receives a communication with another
10 member through the provider's service.

11 (e) If the online dating service provider conducts criminal
12 background checks and the provider has a policy allowing a
13 member who has been identified as having a felony or sex
14 offense conviction to have access to its service to communicate
15 with any member in this State, the provider shall clearly and
16 conspicuously disclose on any communication to a member in this
17 State from the member who has been identified as having a
18 felony or sex offense conviction, and on any web page that is
19 seen by or transmitted to a member in this State that contains
20 the personal information for the member who has been identified
21 as having a felony or sex offense conviction and that is seen
22 by or communicated to a member in this State, a disclosure that
23 shall read:

24 "THIS PERSON HAS BEEN IDENTIFIED AS HAVING A FELONY OR
25 SEX OFFENSE CONVICTION."

1 Section 20. Provider policies; disclosure. An online
2 dating service provider that conducts criminal background
3 checks shall establish an automatic electronic link from any
4 web page containing the disclosure required by subsection (c)
5 of Section 15 to a web page that provides a safety awareness
6 notification. The web page containing the safety awareness
7 notification shall be configured such that it shall
8 automatically appear each time a member makes the electronic
9 acknowledgement of the disclosure under subsection (c) of
10 Section 15. The member is required to make an electronic
11 acknowledgement of the safety awareness notification each time
12 it appears and the acknowledgement shall appear at the bottom
13 of the web page containing the notification. At a minimum, the
14 safety awareness notification shall provide the following:

15 (1) A statement that reads:

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

26 The background checks for felony and sex offense

1 convictions are not foolproof and are not intended to
2 give members a false sense of security. Background
3 checks are not a perfect safety solution and criminals
4 may circumvent even the most sophisticated search
5 technology.

6 Not all criminal records are public in all states
7 and not all databases are up-to-date. Only publicly
8 available felony and sex offense convictions are
9 included in the background check, but background
10 checks do not cover other convictions or arrests or any
11 convictions from foreign countries.

12 Anyone who is able to commit identity theft can
13 also falsify a dating profile.

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

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

20 Section 25. Application. Any online dating service
21 provider that signs up members from Illinois must comply with
22 the provisions of this Act.

23 Section 30. Jurisdiction. An online dating service that
24 engages in the act of transmitting files over the Internet

1 addressed to residents of the State, and the act of accepting
2 membership fees from residents of the State, means that the
3 online dating service is operating, conducting, engaging in,
4 and otherwise carrying on a business in the State, subjecting
5 the online dating service providers to regulation by the State
6 and to the jurisdiction of the State's courts.

7 Section 35. Unfair business practice. Failure to comply
8 with the disclosure requirements of this Act shall constitute a
9 an unlawful business practice under the Consumer Fraud and
10 Deceptive Business Practices Act. Each failure to provide the
11 required disclosure constitutes a separate violation.

12 Section 40. Civil penalties. In addition to the remedy
13 provided in this Act or the Consumer Fraud and Deceptive
14 Business Practices Act, the Attorney General may bring an
15 action and the court may impose a civil penalty of up to \$1,000
16 per violation, with an aggregate total not to exceed \$25,000
17 for any 24-hour period, against any online dating service
18 provider who violates any requirement of this Act.

19 Section 45. Internet Dating Disclosure and Safety
20 Awareness Act Fund. There is hereby created the Internet Dating
21 Disclosure and Safety Awareness Act Fund as a special fund in
22 the State Treasury. All civil monetary penalties imposed as a
23 result of any action filed under this Act shall be deposited

1 into the Fund. Monies in the Fund shall be allocated, subject
2 to appropriation, to the Office of the Attorney General for
3 enforcement of this Act.

4 Section 50. Exemptions.

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

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

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

15 Section 55. Severability. If any provision of this Act or
16 its application to any person or circumstance is held invalid,
17 the invalidity of that provision or application does not affect
18 other provisions or applications of this Act that can be given
19 effect without the invalid provision or application.

20 Section 300. The State Finance Act is amended by adding
21 Section 5.675 as follows:

22 (30 ILCS 105/5.675 new)

1 Sec. 5.675. The Internet Dating Disclosure and Safety
2 Awareness Act Fund.

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

5 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

6 Sec. 2Z. Violations of other Acts. Any person who knowingly
7 violates the Automotive Repair Act, the Automotive Collision
8 Repair Act, the Home Repair and Remodeling Act, the Dance
9 Studio Act, the Physical Fitness Services Act, the Hearing
10 Instrument Consumer Protection Act, the Illinois Union Label
11 Act, the Job Referral and Job Listing Services Consumer
12 Protection Act, the Travel Promotion Consumer Protection Act,
13 the Credit Services Organizations Act, the Automatic Telephone
14 Dialers Act, the Pay-Per-Call Services Consumer Protection
15 Act, the Telephone Solicitations Act, the Illinois Funeral or
16 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
17 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
18 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
19 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
20 Act, the Payday Loan Reform Act, subsection (a) or (b) of
21 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
22 Act, paragraph (6) of subsection (k) of Section 6-305 of the
23 Illinois Vehicle Code, the Internet Dating Disclosure and
24 Safety Awareness Act, Article 3 of the Residential Real

1 Property Disclosure Act, the Automatic Contract Renewal Act, or
2 the Personal Information Protection Act commits an unlawful
3 practice within the meaning of this Act.

4 (Source: P.A. 93-561, eff. 1-1-04; 93-950, eff. 1-1-05; 94-13,
5 eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292,
6 eff. 1-1-06; 94-822, eff. 1-1-07.)