

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2509 Session of
2012

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JUNE 25, 2012

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 25, 2012

AN ACT

1 Requiring online dating service providers to disclose
2 information relating to criminal background checks of its
3 users; imposing penalties; and establishing the Internet
4 Dating Disclosure and Safety Awareness Fund.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Internet
9 Dating Disclosure and Safety Awareness Act.

10 Section 2. Findings.

11 The General Assembly finds and declares as follows:

12 (1) Criminals and sex offenders use online dating
13 services to prey upon the residents of this Commonwealth.

14 (2) Residents of this Commonwealth need to be informed
15 when viewing Internet websites of online dating services as
16 to the potential risks to personal safety associated with
17 online dating. Requiring disclosures in the form of
18 guidelines for safer dating and informing residents as to

whether a criminal background screening has been conducted on members of an online dating service fulfills a compelling State interest to increase public awareness of the possible risks associated with Internet dating activities.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Criminal background check." A search for a member's felony and sex offense convictions, if any, initiated by an online dating service provider conducted through one of the following means:

(1) By searching available and regularly updated government public record databases for felony and sex offense convictions so long as the databases, in the aggregate, provide substantially national coverage.

(2) By searching a database maintained by a private vendor whose database:

(i) contains more than 170,000,000 criminal records that are otherwise available to the public;

(ii) has substantially national coverage;

(iii) is updated at least every 30 days;

(iv) is operated and maintained in the United States; and

(v) contains at least the same or substantially similar criminal history records as would be otherwise accessible through searches of all the available government databases specified in paragraph (1).

"Member." A person who submits to an online dating service provider the information required by the provider to access the

1 provider's service for the purpose of engaging in dating,
2 participating in compatibility evaluations with other persons or
3 obtaining matrimonial matching services.

4 "Online dating service provider" or "provider." A person
5 engaged in the business of offering or providing to its members
6 for a fee access to dating, compatibility evaluations between
7 persons or matrimonial matching services through the Internet.

8 "Sex offense conviction." A conviction for an offense that
9 would qualify the offender for registration as a sex offender
10 pursuant to 42 Pa.C.S. Ch. 97 Subch. H (relating to registration
11 of sexual offenders) or under another state's equivalent
12 statute.

13 Section 4. Disclosures.

14 (a) General rule.--An online dating service provider
15 offering services to residents of this Commonwealth shall
16 disclose clearly and conspicuously, to any member who provides a
17 billing address or a zip code in this Commonwealth when
18 registering with the provider, that the online dating service
19 provider either initiates criminal background checks prior to
20 permitting any member to communicate with a member in this
21 Commonwealth or that the online dating service provider does not
22 initiate criminal background checks.

23 (b) Background check not conducted.--If the online dating
24 service provider does not initiate criminal background checks,
25 the provider shall publish on its Internet website the following
26 disclosure:

27 NO CRIMINAL BACKGROUND CHECK OF FELONY OR SEX OFFENSE
28 CONVICTIONS IS DONE ON MEMBERS WHO USE THIS SERVICE.
29 PLEASE TAKE APPROPRIATE SAFETY MEASURES TO INCREASE
30 AWARENESS OF POSSIBLE RISKS ASSOCIATED WITH DATING.

1 (c) Background check conducted.--If the online dating
2 service provider initiates criminal background checks, the
3 provider shall publish on its Internet website the following
4 disclosure:

5 (NAME OF PROVIDER) INITIATES A LIMITED CRIMINAL
6 BACKGROUND CHECK FOR FELONY AND SEX OFFENSE CONVICTIONS
7 BEFORE A MEMBER IS PERMITTED TO COMMUNICATE WITH ANY
8 MEMBER FROM PENNSYLVANIA.

9 (d) Appearance.--The disclosure required under subsection
10 (b) or (c) shall appear on a web page required to be viewed by a
11 person applying to be a member who has indicated a billing
12 address or zip code in this Commonwealth in the registration
13 process. The disclosure cannot be more than three inches from
14 the top of the web page and must be:

15 (1) In bold capital letters.

16 (2) In at least 12-point type.

17 (3) In a color that contrasts from the background.

18 (e) Acknowledgment.--The provider shall require the
19 applicant in this Commonwealth to make an electronic
20 acknowledgment that the applicant has been provided the
21 disclosure before the applicant is accepted as a member. The
22 disclosure required under subsection (b) or (c) shall
23 additionally appear on any page that appears to a member in this
24 Commonwealth each time that member initiates or receives a
25 communication with another member through the provider's
26 service.

27 (f) Additional disclosure.--If the online dating service
28 provider conducts criminal background checks and the provider
29 has a policy allowing a member who has been identified as having
30 a felony or sex offense conviction to have access to its service

1 to communicate with any member in this Commonwealth, the
2 provider shall clearly and conspicuously disclose on any
3 communication to a member in this Commonwealth from the member
4 who has been identified as having a felony or sex offense
5 conviction, and on any web page that is seen by or transmitted
6 to a member in this Commonwealth that contains the personal
7 information for the member who has been identified as having a
8 felony or sex offense conviction and that is seen by or
9 communicated to a member in this Commonwealth, a disclosure that
10 shall read:

11 THIS PERSON HAS BEEN IDENTIFIED AS HAVING A FELONY OR SEX
12 OFFENSE CONVICTION.

13 Section 6. Provider policies.

14 An online dating service provider that conducts criminal
15 background checks shall establish an automatic electronic link
16 on its Internet website from any web page containing the
17 disclosure required by section 5(c) to a web page that provides
18 a safety awareness notification. The web page containing the
19 safety awareness notification shall be configured such that it
20 shall automatically appear each time a member makes the
21 electronic acknowledgment of the disclosure under section 5(c).
22 The member is required to make an electronic acknowledgment of
23 the safety awareness notification each time it appears and the
24 acknowledgment shall appear at the bottom of the web page
25 containing the notification. At a minimum, the safety awareness
26 notification shall provide the following:

27 (1) A statement that reads:

28 PERSONAL SAFETY AWARENESS NOTICE CAUTION: Before
29 allowing Pennsylvania members to communicate with other
30 members (Name of provider) initiates a criminal

1 background check of available public records to determine
2 if any felony or sex offense convictions are identified
3 based on the name and other information we require of
4 members to create a profile. The purpose is to provide a
5 preliminary background screening for protection of our
6 members before they are permitted to begin communicating
7 directly with each other.

8 The criminal background checks for felony and sex
9 offense convictions are not foolproof and are not
10 intended to give members a false sense of security.
11 Criminal background checks are not a perfect safety
12 solution and criminals may circumvent even the most
13 sophisticated search technology.

14 Not all criminal records are public in all states and
15 not all databases are up to date. Only publicly available
16 felony and sex offense convictions are included in the
17 criminal background check, but criminal background checks
18 do not cover other convictions or arrests or any
19 convictions from foreign countries.

20 Anyone who is able to commit identity theft can also
21 falsify a dating profile.

22 There is no substitute for using good common sense
23 and acting with caution when communicating with any
24 stranger who wants to meet you.

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

28 Section 7. Application.

29 An online dating service provider that enrolls members from
30 Pennsylvania shall comply with this act.

1 Section 8. Jurisdiction.

2 An online dating service provider that engages in the acts of
3 transmitting files over the Internet addressed to residents of
4 this Commonwealth and of accepting membership fees from
5 residents of this Commonwealth means that the online dating
6 service provider is operating, conducting, engaging in and
7 otherwise carrying on a business in this Commonwealth and
8 subjects itself to regulation by the Commonwealth and to the
9 jurisdiction of the courts of this Commonwealth.

10 Section 9. Violation of Unfair Trade Practices and Consumer
11 Protection Law.

12 A violation of this act constitutes an unfair method of
13 competition and unfair or deceptive act or practice within the
14 meaning of section 2(4) of the act of December 17, 1968
15 (P.L.1224, No.387), known as the Unfair Trade Practices and
16 Consumer Protection Law. Each failure to provide the required
17 disclosure constitutes a separate violation of that act.

18 Section 10. Civil penalties.

19 In addition to the remedy provided in this act and the act of
20 December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade
21 Practices and Consumer Protection Law, the Attorney General may
22 bring an action and the court may impose a civil penalty of up
23 to \$1,000 per violation, with an aggregate total not to exceed
24 \$25,000 for any 24-hour period, against any online dating
25 service provider that violates any requirement of this act.

26 Section 11. Internet Dating Disclosure and Safety Awareness
27 Fund.

28 The Internet Dating Disclosure and Safety Awareness Fund is
29 established in the State Treasury. All civil monetary penalties
30 imposed as a result of any action filed under this act shall be

1 deposited into the fund. Moneys in the fund shall be expended,
2 subject to appropriation, by the Office of Attorney General for
3 enforcement of this act.

4 Section 12. Exemptions.

5 (a) Intermediaries.--An Internet service provider does not
6 violate this act solely as a result of serving as an
7 intermediary for the transmission of electronic messages between
8 members of an online dating service provider. An Internet access
9 service or other Internet service provider shall not be
10 considered an online dating service provider within the meaning
11 of this act as to any online dating service Internet website
12 provided by another person or entity.

13 (b) Number of members.--An Internet service provider that
14 has fewer than 1,000 members is exempt from the requirements of
15 this act.

16 Section 13. Effective date.

17 This act shall take effect in 60 days.