



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB5299

Introduced 01/25/06, by Rep. John E. Bradley

#### SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 105/5.663 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.

LRB094 15758 LCT 50972 b

FISCAL NOTE ACT  
MAY APPLY

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.

24 "Sex offense conviction" means a conviction for an offense  
25 that would qualify the offender for registration as a sex  
26 offender pursuant to the Sex Offender Registration Act or under  
27 another state's equivalent statute.

28 Section 10. Criminal background check. For purposes of this  
29 Act, a criminal background check shall be conducted through one  
30 of the following means:

31 (1) by searching available and regularly updated

1 government public record databases for felony and sex  
2 offense convictions so long as the databases, in the  
3 aggregate, provide substantially national coverage; or

4 (2) by searching a database maintained by a private  
5 vendor whose database contains more than 170,000,000  
6 criminal records that are otherwise available to public,  
7 has substantially national coverage, is updated at least  
8 every 30 days, is operated and maintained in the United  
9 States, and contains at least the same or substantially  
10 similar criminal history records as would be otherwise  
11 accessible through searches of all the available  
12 government databases specified in item (1) of this Section.

13 Section 15. Criminal background check; disclosures.

14 (a) An online dating service provider offering services to  
15 residents of this State shall disclose clearly and  
16 conspicuously, to any member who provides a billing address or  
17 a zip code in this State when registering with the provider,  
18 that the online dating provider either initiates a background  
19 check of felony and sex offense convictions on each member  
20 prior to permitting any member to communicate with a member in  
21 this State or that the online dating service provider does not  
22 initiate such a background check.

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

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

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

32 ".....(NAME OF PROVIDER)..... INITIATES  
33 A LIMITED BACKGROUND CHECK FOR FELONY AND SEX OFFENSE  
34 CONVICTIONS BEFORE A MEMBER IS PERMITTED TO COMMUNICATE  
35 WITH ANY MEMBER FROM ILLINOIS."

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

7 (1) in bold capital letters;

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

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

10 The provider shall require the applicant in this State to  
11 make an electronic acknowledgement that the applicant has been  
12 provided the disclosure before the applicant is accepted as a  
13 member. The disclosure required by either subsection (b) or  
14 subsection (c) of this Section shall additionally appear on any  
15 page that appears to a member in this State each time that  
16 member initiates or receives a communication with another  
17 member through the provider's service.

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

31 "THIS PERSON HAS BEEN IDENTIFIED AS HAVING A FELONY OR  
32 SEX OFFENSE CONVICTION."

33 Section 20. Provider policies; disclosure. An online  
34 dating service provider that conducts criminal background  
35 checks shall establish an automatic electronic link from any

1 web page containing the disclosure required by subsection (c)  
2 of Section 15 to a web page that provides a safety awareness  
3 notification. The web page containing the safety awareness  
4 notification shall be configured such that it shall  
5 automatically appear each time a member makes the electronic  
6 acknowledgement of the disclosure under subsection (c) of  
7 Section 15. The member is required to make an electronic  
8 acknowledgement of the safety awareness notification each time  
9 it appears and the acknowledgement shall appear at the bottom  
10 of the web page containing the notification. At a minimum, the  
11 safety awareness notification shall provide the following:

12 (1) A statement that reads:

13 " PERSONAL SAFETY AWARENESS NOTICE CAUTION: Before  
14 allowing Illinois members to communicate with other  
15 members . . . [Name of provider] . . . initiates a  
16 background check of available public records to  
17 determine if any felony or sex offense convictions are  
18 identified based on the name and other information we  
19 require of members to create a profile. The purpose is  
20 to provide a preliminary background screening for  
21 protection of our members before they are permitted to  
22 begin communicating directly with each 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 publicly  
31 available felony and sex offense convictions are  
32 included in the background check, but background  
33 checks do not cover other convictions or arrests or any  
34 convictions from foreign countries.

35 Anyone who is able to commit identity theft can  
36 also falsify a dating profile.

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

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

7           Section 25. Application. Any online dating service  
8           provider that signs up members from Illinois must comply with  
9           the provisions of this Act.

10          Section 30. Jurisdiction. An online dating service that  
11          engages in the act of transmitting files over the Internet  
12          addressed to residents of the State, and the act of accepting  
13          membership fees from residents of the State, means that the  
14          online dating service is operating, conducting, engaging in,  
15          and otherwise carrying on a business in the State, subjecting  
16          the online dating service providers to regulation by the State  
17          and to the jurisdiction of the State's courts.

18          Section 35. Unfair business practice. Failure to comply  
19          with the disclosure requirements of this Act shall constitute a  
20          an unlawful business practice under the Consumer Fraud and  
21          Deceptive Business Practices Act. Each failure to provide the  
22          required disclosure constitutes a separate violation.

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

30          Section 45. Internet Dating Disclosure and Safety  
31          Awareness Act Fund. There is hereby created the Internet Dating

1 Disclosure and Safety Awareness Act Fund as a special fund in  
2 the State Treasury. All civil monetary penalties imposed as a  
3 result of any action, filed under this Act shall be deposited  
4 into the Fund. Monies in the Fund shall be allocated, subject  
5 to appropriation, to the Office of the Attorney General for  
6 enforcement of this Act.

7 Section 50. Exemptions.

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

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

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

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

23 Section 300. The State Finance Act is amended by adding  
24 Section 5.663 as follows:

25 (30 ILCS 105/5.663 new)

26 Sec. 5.663. The Internet Dating Disclosure and Safety  
27 Awareness Act Fund.

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

30 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

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

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