



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4970

Introduced 1/21/2010, by Rep. Keith Farnham

SYNOPSIS AS INTRODUCED:

New Act
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 service provider initiates a sex offender registrant search of sex offender registrations 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 sex offender registrant search. Provides that a sex offender registrant search is conducted by searching the available updated sex offender registries in all 50 states, Washington, D.C., and Puerto Rico. Provides language concerning the disclosures. Requires that an online dating service provider that conducts sex offender registrant searches 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 practice under the Consumer Fraud and Deceptive Business Practices Act. Provides that each failure to provide the required disclosure constitutes a separate violation. Amends the Consumer Fraud and Deceptive Business Practices Act. Adds the Internet Dating Disclosure and Safety Awareness Act to the list of Acts the knowing violation of which constitutes an unlawful practice.

LRB096 18017 DRJ 33389 b

1 AN ACT concerning business.

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

15 "Online dating service provider" or "provider" means a
16 person engaged in the business of offering or providing to its
17 members for a fee access to dating, compatibility evaluations
18 between persons, or matrimonial matching services through the
19 Internet.

20 "Sex offender registrant search" means a search for a
21 person's current and historical registration status on each
22 state's available sex offender registry, including the
23 District of Columbia and Puerto Rico, initiated by an online

1 dating service provider conducted through one of the means
2 provided for in Section 10 of this Act.

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

7 Section 10. Sex offender registrant search. For purposes of
8 this Act, a sex offender registrant search shall be conducted
9 through one of the following means:

10 (1) by searching each available and regularly updated
11 state-wide sex offender registry database in all 50 states
12 plus Washington, D.C. and Puerto Rico; or

13 (2) by searching a database maintained and regularly
14 updated by a private vendor whose database contains
15 state-wide sex offender registrant information for all 50
16 states plus Washington, D.C. and Puerto Rico as would be
17 otherwise accessible through searches of all the available
18 government databases specified in item (1) of this Section.

19 Section 15. Sex offender registrant search; disclosures.

20 (a) An online dating service provider offering services to
21 residents of this State shall disclose clearly and
22 conspicuously, to any member who provides a billing address or
23 a zip code in this State when registering with the provider, if
24 the online dating service provider does not initiate a sex

1 offender registrant search.

2 (b) If the online dating service provider does not initiate
3 sex offender registrant searches, the provider must make a
4 disclosure that shall read:

5 "NO SEX OFFENDER REGISTRY SEARCH IS DONE ON MEMBERS WHO
6 USE THIS SERVICE. PLEASE TAKE APPROPRIATE SAFETY MEASURES
7 TO INCREASE AWARENESS OF POSSIBLE RISKS ASSOCIATED WITH
8 DATING."

9 (c) The disclosure required by subsection (b) of this
10 Section 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 State in the registration process.
13 The disclosure may not be more than 3 inches from the top of
14 the web page and must be:

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

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

26 (d) If the online dating service provider conducts sex

1 offender registry searches and the provider has a policy
2 allowing a member who has been identified as being on a sex
3 offender registry to have access to its service to communicate
4 with any member in this State, the provider shall clearly and
5 conspicuously disclose on any communication to a member in this
6 State from the member who has been identified as having been on
7 a sex offender registry, and on any web page that is seen by or
8 transmitted to a member in this State that contains the
9 personal information for the member who has been identified as
10 having been on a sex offender registry and that is seen by or
11 communicated to a member in this State, a disclosure that shall
12 read:

13 "THIS PERSON HAS BEEN IDENTIFIED AS A CURRENT OR FORMER
14 SEX OFFENDER REGISTERED ON ONE OR MORE SEX OFFENDER
15 REGISTRIES."

16 (e) Prior to disclosing to any member or publicizing in any
17 manner that a member has been identified as having been on a
18 sex offender registry, the provider shall, if it conducted the
19 search in accordance with item (1) of Section 10, notify the
20 member identified as having been on a sex offender registry of
21 the results of the search. If the provider conducts the search
22 in accordance with item (2) of Section 10, it shall notify and
23 require the private vendor to contact the member having been
24 identified as having been on a sex offender registry regarding
25 the results of the search.

26 If within 10 days of receipt of notification the member

1 disputes the accuracy of his or her status as having been on a
2 sex offender registry, the provider either personally or
3 through its vendor shall, within 30 days of receipt of
4 information from the member contesting the accuracy of the sex
5 offender search, make a determination of its accuracy and so
6 notify the member.

7 Section 20. Provider policies; disclosure. An online
8 dating service provider that conducts sex offender registry
9 searches shall establish an automatic electronic link to a web
10 page that provides a safety awareness notification. At a
11 minimum, the safety awareness notification shall provide the
12 following:

13 (1) A statement that reads:

14 "PERSONAL SAFETY AWARENESS NOTICE CAUTION:

15 The sex offender registrant searches for sex
16 offenders convictions are not foolproof and are not
17 intended to give members a false sense of security. Sex
18 offender registrant searches are not a perfect safety
19 solution and offenders may circumvent even the most
20 sophisticated search technology or registration
21 requirements.

22 Not all sex offender records are public in all
23 states and not all databases are up-to-date. Only
24 publicly available sex offender registrant data is
25 included in the search.

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

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

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

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

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

20 Section 35. Unlawful practice. Failure to comply with the
21 disclosure requirements of this Act shall constitute an
22 unlawful practice under the Consumer Fraud and Deceptive
23 Business Practices Act. Each failure to provide the required

1 disclosure constitutes a separate violation.

2 Section 40. Exemptions.

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

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

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

13 Section 45. Severability. If any provision of this Act or
14 its application to any person or circumstance is held invalid,
15 the invalidity of that provision or application does not affect
16 other provisions or applications of this Act that can be given
17 effect without the invalid provision or application.

18 Section 90. The Consumer Fraud and Deceptive Business
19 Practices Act is amended by changing Section 2Z as follows:

20 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

21 Sec. 2Z. Violations of other Acts. Any person who knowingly
22 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, the Mortgage Rescue Fraud
12 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
13 Act, ~~the Payday Loan Reform Act,~~ subsection (a) or (b) of
14 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
15 Act, the Internet Caller Identification Act, paragraph (6) of
16 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
17 Section 18d-115, 18d-120, 18d-125, 18d-135, or 18d-150 of the
18 Illinois Vehicle Code, the Internet Dating Disclosure and
19 Safety Awareness Act, Article 3 of the Residential Real
20 Property Disclosure Act, the Automatic Contract Renewal Act, or
21 the Personal Information Protection Act commits an unlawful
22 practice within the meaning of this Act.

23 (Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280,
24 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,
25 eff. 1-1-08; 95-562, eff. 7-1-08; 95-876, eff. 8-21-08; revised
26 11-4-09.)