

Legislative Analysis



ONLINE DATING SERVICES: REQUIRE CRIMINAL BACKGROUND CHECKS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6234
Sponsor: Rep. Jim Howell
Committee: Judiciary

Complete to 9-28-04

A SUMMARY OF HOUSE BILL 6234 AS INTRODUCED 9-22-04

The bill would create a new act to require online dating services to conduct criminal background checks or to provide certain notices, prescribe criminal penalties, and provide civil remedies. The bill would apply to online dating service providers in the business of offering, promoting, or providing access to dating, relationship, compatibility, matrimonial, or social referral services primarily through the Internet and that provided services to Michigan residents.

An online dating service provider would have to do either of the following:

- Before allowing a member to communicate with other members through the service, conduct a criminal background check. "Criminal background check" would be defined as searching a person's felony and sexual offense convictions. The check would have to be made either directly through the criminal history record system of the FBI based on fingerprint identification or any other method utilized by the FBI for positive identification or through a private vendor whose database contained more than 170,000 criminal records, had substantially national coverage, and was operated and maintained in the U.S.; or,
- Disclose to website visitors that criminal background checks were not conducted on members or other persons using the service. The bill would establish requirements for the disclosure, including the wording of the disclosure, location of the disclosure, size of type, etc. Jurisdictions not covered by the background check would have to be identified in the disclosure statement.

A person with a felony or a sexual offense conviction would have to be excluded. The criminal background check for each member would have to be updated at least once every 90 days by the online dating service provider.

A violation of the bill would be a misdemeanor punishable by imprisonment for up to one year, a fine of not more than \$10,000, or both. A provider would not be considered as violating the act for being an intermediary between the sender and recipient in the transmission of a message that violated the bill.

The attorney general could bring a civil action against a person who violated the act to recover the greater of actual damages or \$250,000. Actual costs and reasonable attorney fees would be awarded to the prevailing party. However, an online dating service provider that did conduct the background checks as required by the bill would not be subject to civil liability.

FISCAL IMPACT:

The bill would have no fiscal impact for the state and an indeterminate fiscal impact on local units of government. To the extent that misdemeanor convictions were obtained under the bill, local units of government could incur costs of misdemeanor probation or jail; any penal fines collected under the bill would be constitutionally dedicated to local libraries. In addition, the bill would have an indeterminate impact on the state, depending on the frequency and outcome of civil actions brought by the attorney general.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson

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