

SUBSTITUTE FOR  
HOUSE BILL NO. 6234

A bill to require online dating services to conduct criminal background checks or to provide certain notices; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. As used in this act:

2       (a) "Criminal background check" means a search of a person's  
3 felony and sexual offense convictions by 1 of the following  
4 means:

5       (i) Through the criminal history record system maintained by  
6 the federal bureau of investigation based on fingerprint  
7 identification or any other method of positive identification  
8 used by the federal bureau of investigation.

9       (ii) Through the criminal history record systems maintained  
10 by each of the 50 states and the District of Columbia.

11       (iii) Through a private vendor whose database contains more

1 than 170,000,000 criminal records, has substantially national  
2 coverage, is updated at least once every 90 days, and is operated  
3 and maintained in the United States.

4 (b) "Member" means a person who is either a member or who  
5 submits a profile or other information for the purpose of dating,  
6 matrimonial, or social referral services to an online dating  
7 service provider.

8 (c) "Online dating service provider" or "provider" means a  
9 person or organization engaged, directly or indirectly, in the  
10 business of offering, promoting, or providing access to dating,  
11 relationship, compatibility, matrimonial, or social referral  
12 services primarily through the internet.

13 Sec. 2. An online dating service provider that provides  
14 services to residents of this state shall do 1 of the following:

15 (a) Conduct a criminal background check as provided under  
16 section 1(a)(i) for each member using the online dating service  
17 before allowing that person to communicate with another person  
18 through the online dating service.

19 (b) Disclose prominently on the provider's home page, not  
20 more than 3 inches from the top of the website, that the online  
21 dating service provider has not conducted criminal background  
22 checks on persons using its service. The disclosure shall state  
23 the following:

24 **"WARNING: [NAME OF PROVIDER] HAS NOT CONDUCTED FELONY OR**  
25 **SEXUAL OFFENSE BACKGROUND CHECKS ON ITS MEMBERS."**

26 (c) If the provider conducts criminal background checks as  
27 described in section 1(a)(ii), display prominently on the

1 provider's home page, not more than 3 inches from the top of the  
2 website, a disclosure that states the following:

3       **"WARNING: BASED SOLELY ON THE NAME PROVIDED BY THE MEMBER,**  
4       **[NAME OF PROVIDER] HAS CONDUCTED A CRIMINAL BACKGROUND**  
5       **CHECK THROUGH THE CRIMINAL HISTORY RECORD SYSTEMS**  
6       **MAINTAINED BY EACH OF THE 50 STATES AND THE DISTRICT OF**  
7       **COLUMBIA.".**

8       (d) If the provider conducts criminal background checks as  
9 described in section 1(a)(iii), display prominently on the  
10 provider's home page, not more than 3 inches from the top of the  
11 website, a disclosure that states the following:

12       **"WARNING: BASED SOLELY ON THE NAME PROVIDED BY THE MEMBER,**  
13       **[NAME OF PROVIDER] HAS CONDUCTED A CRIMINAL BACKGROUND**  
14       **CHECK THROUGH A PRIVATE VENDOR WHOSE RECORDS MAY NOT**  
15       **INCLUDE ALL CONVICTIONS FROM ALL JURISDICTIONS. CONTACT**  
16       **[NAME OF PROVIDER] FOR INFORMATION REGARDING WHICH**  
17       **JURISDICTIONS ARE INCLUDED.".**

18       Sec. 3. (1) Subject to the requirements of this act, an  
19 online dating service provider shall establish a policy on what  
20 actions the provider will initiate as a result of information  
21 obtained through a criminal background check.

22       (2) A copy of the policy established under subsection (1)  
23 shall be made available to each person that applies for  
24 membership with the provider.

25       (3) Before a person is accepted for membership with the  
26 provider, the person shall be required to acknowledge that they  
27 have had an opportunity to review the policy established under

1 subsection (1).

2 (4) The provider's home page shall contain a link that will  
3 allow a person to review the policy established under subsection  
4 (1). An online dating service provider shall update the criminal  
5 background check for each member at least once every 90 days.

6 Sec. 5. (1) A civil action may be brought by a person who  
7 suffers damages as a result of a violation of this act.

8 (2) In an action brought under this section, a person may  
9 recover actual costs, actual and reasonable attorney fees, and  
10 the lesser of the following:

11 (a) Actual damages.

12 (b) \$250,000.00.

13 Sec. 6. A provider does not violate this act as a result of  
14 being an intermediary between the sender and recipient in the  
15 transmission of a message that violates this act.

16 Enacting section 1. This act takes effect January 1, 2006.