

HOUSE BILL No. 6234

September 22, 2004, Introduced by Rep. Howell and referred to the Committee on Judiciary.

A bill to require online dating services to conduct criminal background checks or to provide certain notices; and to prescribe penalties and 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) Directly through the criminal history record system
6 maintained by the federal bureau of investigation based on
7 fingerprint identification or any other method of positive
8 identification used by the federal bureau of investigation.

9 (ii) Through a private vendor whose database contains more
10 than 170,000,000 criminal records, has substantially national
11 coverage, and is operated and maintained in the United States.

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

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

10 Sec. 2. (1) An online dating service provider that provides
11 services to residents of this state shall do 1 of the following:

12 (a) Conduct a criminal background check for each member using
13 the online dating service before allowing that person to
14 communicate with another person through the online dating
15 service.

16 (b) Disclose prominently to all website visitors that the
17 online dating service provider has not conducted criminal
18 background checks on its members or other persons using its
19 service.

20 (2) The disclosure required under subsection (1)(b) shall be
21 in bold, capital letters in at least 12-point type, and in clear
22 contrast to the surrounding background and located within 3
23 inches of the top of each web page as required under section 3.

24 Sec. 3. (1) The disclosure required under section 2(1)(b)
25 shall appear on the online dating service provider's home page if
26 the online dating service provider does not conduct, or has not
27 conducted, a criminal background check for any member using the

1 provider's services and on the profile page for each member for
2 whom the provider has not conducted a criminal background check.

3 (2) The disclosure on the online dating service provider's
4 home page shall state the following:

5 **"WARNING: [NAME OF PROVIDER] HAS NOT CONDUCTED FELONY OR**
6 **SEXUAL OFFENSE BACKGROUND CHECKS ON SOME OR ALL OF OUR**
7 **MEMBERS."**

8 (3) The disclosure on the profile page, if required, shall
9 state the following:

10 **"WARNING: [NAME OF PROVIDER] HAS NOT CONDUCTED A FELONY OR**
11 **SEXUAL OFFENSE BACKGROUND CHECK ON THIS INDIVIDUAL."**

12 Sec. 4. (1) If a criminal background check reveals that an
13 individual has either a felony or a sexual offense, the online
14 dating service provider shall exclude that person from its
15 service.

16 (2) If an online dating service provider's criminal
17 background checks do not include all 50 states or the District of
18 Columbia, the provider shall include in its disclosure the
19 jurisdictions that are not included in the provider's criminal
20 background checks.

21 (3) An online dating service provider shall update the
22 criminal background check for each member at least once every 90
23 days.

24 Sec. 5. (1) A person who violates this act is guilty of a
25 misdemeanor punishable by imprisonment for not more than 1 year
26 or a fine of not more than \$10,000.00, or both.

27 (2) A provider does not violate this act as a result of being

1 an intermediary between the sender and recipient in the
2 transmission of a message that violates this act.

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

5 (2) A civil action may be brought by the attorney general
6 against a person who has violated this act.

7 (3) In an action brought under this section, a person or the
8 attorney general may recover the greater of the following:

9 (a) Actual damages.

10 (b) \$250,000.00.

11 (4) The prevailing party in an action brought under this act
12 shall be awarded actual costs and reasonable attorney fees.

13 (5) An online dating service provider that conducts criminal
14 background checks as required by this act is not subject to civil
15 liability under this section.