

By: Patrick

H.B. No. 1052

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to criminal background checks on users of online dating  
3 services and to disclosures of online dating safety measures;  
4 providing a civil penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is  
7 amended by adding Chapter 106 to read as follows:

8 CHAPTER 106. INTERNET DATING SAFETY ACT

9 Sec. 106.001. DEFINITIONS. In this chapter:

10 (1) "Member" means a person who submits to an online  
11 dating service provider the information required by the provider to  
12 access the provider's service for the purpose of engaging in dating  
13 or participating in a compatibility evaluation with other persons.

14 (2) "Online dating service provider" means a person  
15 engaged in the business of offering or providing to its members  
16 access to dating or compatibility evaluations between persons  
17 through the Internet to arrange or facilitate the social  
18 introduction of two or more persons for the purpose of promoting the  
19 meeting of individuals.

20 (3) "Texas member" means a member who provides a  
21 billing address or zip code in this state when registering with the  
22 online dating service provider.

23 Sec. 106.002. APPLICABILITY OF CHAPTER. This chapter does  
24 not apply to an Internet service provider serving as an

1 intermediary for the transmission of electronic messages between  
2 members of an online dating service provider.

3 Sec. 106.003. CONDUCT OF CRIMINAL BACKGROUND CHECK. (a)  
4 For purposes of this chapter, an online dating service provider  
5 conducts a criminal background check on a person if the provider  
6 initiates a name search for the person's convictions for any:

7 (1) felony offense;

8 (2) offense the conviction or adjudication of which  
9 requires registration as a sex offender under Chapter 62, Code of  
10 Criminal Procedure; and

11 (3) offense for which an affirmative finding of family  
12 violence was made under Article 42.013, Code of Criminal Procedure.

13 (b) The name search described by Subsection (a) must be  
14 conducted by searching:

15 (1) available and regularly updated government public  
16 record databases for criminal conviction records described by  
17 Subsections (a)(1)-(3) that in the aggregate provide substantially  
18 national coverage of those records; or

19 (2) regularly updated databases that contain at least  
20 the same or substantially similar coverage as would be accessible  
21 through searching databases described by Subdivision (1).

22 Sec. 106.004. DISCLOSURE BY PROVIDER THAT DOES NOT CONDUCT  
23 CRIMINAL BACKGROUND CHECK. (a) An online dating service provider  
24 that offers services to residents of this state and does not conduct  
25 a criminal background check on each member before permitting a  
26 Texas member to communicate through the provider with another  
27 member shall clearly and conspicuously disclose to all Texas

1 members that the provider does not conduct criminal background  
2 checks, as described by Section 106.003.

3 (b) The disclosure required by this section must be stated  
4 in bold, capital letters, in at least 12-point type on the online  
5 dating service provider's Internet website.

6 Sec. 106.005. DISCLOSURES BY PROVIDER THAT CONDUCTS  
7 CRIMINAL BACKGROUND CHECKS. (a) An online dating service provider  
8 that offers services to residents of this state and conducts a  
9 criminal background check on each member before permitting a Texas  
10 member to communicate through the provider with another member  
11 shall clearly and conspicuously disclose to all Texas members that  
12 the provider conducts a criminal background check, as described by  
13 Section 106.003, on each member before permitting a Texas member to  
14 communicate through the provider with another member.

15 (b) An online dating service provider that offers services  
16 to residents of this state and conducts a criminal background check  
17 on each member shall include on the provider's Internet website:

18 (1) a statement of whether the provider excludes from  
19 its online dating service all persons identified as having been  
20 convicted of:

21 (A) a felony offense;

22 (B) an offense the conviction or adjudication of  
23 which requires registration as a sex offender under Chapter 62,  
24 Code of Criminal Procedure; or

25 (C) an offense for which an affirmative finding  
26 of family violence was made under Article 42.013, Code of Criminal  
27 Procedure; and

1           (2) a statement that:

2                   (A) criminal background checks are not  
3 foolproof;

4                   (B) criminal background checks may give members a  
5 false sense of security;

6                   (C) criminal background checks are not a perfect  
7 safety solution;

8                   (D) criminals may circumvent even the most  
9 sophisticated search technology;

10                   (E) not all criminal records are public in all  
11 states and not all databases are up to date;

12                   (F) only publicly available convictions are  
13 included in the criminal background check; and

14                   (G) the criminal background check does not cover  
15 other types of convictions than convictions for offenses described  
16 by Section 106.003(a) or any convictions from foreign countries.

17           (c) A disclosure required by Subsection (a) must be stated  
18 in bold, capital letters, in at least 12-point type on the online  
19 dating service provider's Internet website.

20           Sec. 106.006. SAFETY AWARENESS DISCLOSURE BY ALL PROVIDERS.  
21 An online dating service provider that offers services to residents  
22 of this state shall clearly and conspicuously provide a safety  
23 awareness notification on the provider's Internet website that  
24 includes a list and description of safety measures reasonably  
25 designed to increase awareness of safer online dating practices.  
26 Examples of the safety awareness notification include the following  
27 statements or substantially similar statements:

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

3           (2) "There is no substitute for acting with caution  
4 when communicating with any stranger who wants to meet you.";

5           (3) "Never include your last name, e-mail address,  
6 home address, phone number, place of work, or any other identifying  
7 information in your Internet profile or initial e-mail messages.  
8 Stop communicating with anyone who pressures you for personal or  
9 financial information or attempts in any way to trick you into  
10 revealing it."; and

11           (4) "If you choose to have a face-to-face meeting with  
12 another member, always tell someone in your family or a friend where  
13 you are going and when you will return. Never agree to be picked up  
14 at your home. Always provide your own transportation to and from  
15 your date and meet in a public place with many people around."

16           Sec. 106.007. CIVIL PENALTY; INJUNCTION. (a) An online  
17 dating service provider who violates this chapter is liable to the  
18 state for a civil penalty in an amount not to exceed \$250 for each  
19 Texas member registered with the online dating service provider  
20 during the time of the violation.

21           (b) The attorney general may:

22           (1) seek an injunction to prevent or restrain a  
23 violation of this chapter; or

24           (2) bring suit to recover the civil penalty imposed  
25 under Subsection (a).

26           (c) The attorney general may recover reasonable expenses  
27 incurred in obtaining an injunction or civil penalty under this

1 section, including court costs and reasonable attorney's fees.

2           SECTION 2. Not later than September 1, 2011, an online  
3 dating service provider must comply with Chapter 106, Business &  
4 Commerce Code, as added by this Act, with respect to each person who  
5 is using the provider's service on that date.

6           SECTION 3. This Act takes effect September 1, 2011.