

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 488
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the market research firm IBISWORLD, over 20 million Americans participate in Internet dating, the number of users more than doubling in the last five years. Often Texas residents are not informed of the potential risks of participating in Internet dating services. Currently, online dating service providers are not required to disclose whether their dating sites conduct criminal background checks.

In order to help protect Texas consumers, C.S.S.B. 488 requires online dating service providers to disclose whether criminal history background screenings have been performed on their members. C.S.S.B. 488 also requires online dating service providers to publish a list and description of safety measures reasonably designed to increase awareness of safe online dating practices.

C.S.S.B. 488 amends current law relating to criminal background checks on users of online dating services and to disclosures of online dating safety measures and provides a civil penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 5, Business & Commerce Code, by adding Chapter 106, as follows:

CHAPTER 106. INTERNET DATING SAFETY ACT

Sec. 106.001. DEFINITIONS. Defines, in this chapter, "member," "online dating service provider," and "Texas member."

Sec. 106.002. APPLICABILITY OF CHAPTER. Provides that this chapter does not apply to an Internet service provider serving as an intermediary for the transmission of electronic messages between members of an online dating service provider.

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

- (1) felony offense;
- (2) offense the conviction or adjudication of which requires registration as a sex offender under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure; and

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

(b) Requires that the name search described by Subsection (a) be conducted by searching:

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

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

Sec. 106.004. **DISCLOSURE BY PROVIDER THAT DOES NOT CONDUCT CRIMINAL BACKGROUND CHECK.** (a) Requires an online dating service provider that offers services to residents of this state and does not conduct a criminal background check on each member before permitting a Texas member to communicate through the provider with another member to clearly and conspicuously disclose to all Texas members that the provider does not conduct criminal background checks, as described by Section 106.003.

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

Sec. 106.005. **DISCLOSURES BY PROVIDER THAT CONDUCTS CRIMINAL BACKGROUND CHECKS.** (a) Requires an online dating service provider that offers services to residents of this state and conducts a criminal background check on each member before permitting a Texas member to communicate through the provider with another member to clearly and conspicuously disclose to all Texas members that the provider conducts a criminal background check, as described by Section 106.003, on each member before permitting a Texas member to communicate through the provider with another member.

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

(1) a statement of whether the provider excludes from its online dating service all persons identified as having been convicted of a felony offense; an offense the conviction or adjudication of which requires registration as a sex offender under Chapter 62, Code of Criminal Procedure; or an offense for which an affirmative finding of family violence was made under Article 42.013, Code of Criminal Procedure;

(2) a statement of the number of years of a member's criminal history that is included in a criminal background check; and

(3) certain statements relating to the scope and reliability of criminal background checks.

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

Sec. 106.006. **SAFETY AWARENESS DISCLOSURE BY ALL PROVIDERS.** Requires an online dating service provider that offers services to residents of this state to clearly and conspicuously provide a safety awareness notification on the provider's

Internet website that includes a list and description of safety measures reasonably designed to increase awareness of safer online dating practices. Sets forth statements as examples of the safety awareness notification.

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

(b) Authorizes the attorney general to seek an injunction to prevent or restrain a violation of this chapter, or bring suit to recover the civil penalty imposed under Subsection (a).

(c) Authorizes the attorney general to recover reasonable expenses incurred in obtaining an injunction or civil penalty under this section, including court costs and reasonable attorney's fees.

Sec. 106.008. NO PRIVATE RIGHT OF ACTION. Provides that this chapter does not create a private right of action.

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

SECTION 3. Effective date: September 1, 2011.