

[Second Reprint]

SENATE, No. 1977

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED JUNE 12, 2006

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SYNOPSIS

Creates the "Internet Dating Safety Act," requiring Internet dating services to provide notice whether the service conducts criminal background screenings.

CURRENT VERSION OF TEXT

As amended by the General Assembly on December 13, 2007.

(Sponsorship Updated As Of: 1/8/2008)

1 AN ACT concerning Internet dating safety and supplementing Title
2 56 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Internet
8 Dating Safety Act.”

9

10 2. The Legislature finds and declares:

11 a. Residents of this State need to be informed of the potential
12 risks of participating in Internet dating services. There is a public
13 safety need to disclose whether criminal history background
14 screenings have been performed and to increase public awareness of
15 the possible risks associated with Internet dating activities. ²The
16 primary purpose of this act is to enhance the safety of individuals
17 who use Internet service to facilitate dating.²

18 b. The offer of Internet dating services to residents of this
19 State, and the acceptance of membership fees from residents of this
20 State means that an Internet dating service is conducting business in
21 this State and is subject to regulation by this State and the
22 jurisdiction of the State's courts.

23

24 3. As used in this act:

25 a. "Criminal background screening" means a name search for a
26 person's criminal convictions initiated by an on-line dating service
27 provider and conducted by one of the following means:

28 (1) By searching available and regularly updated government
29 public record databases for criminal convictions so long as such
30 databases, in the aggregate, provide substantial national coverage;
31 or

32 (2) By searching a database maintained by a private vendor that
33 is regularly updated and is maintained in the United States with
34 substantial national coverage of criminal history records and sexual
35 offender registries.

36 b. "Director" means the Director of the Division of Consumer
37 Affairs in the Department of Law and Public Safety.

38 c. "Division" means the Division of Consumer Affairs in the
39 Department of Law and Public Safety.

40 d. "Internet dating service" means a person or entity directly or
41 indirectly in the business, for profit, of offering, promoting or
42 providing access to dating, relationship, compatibility, matrimonial
43 or social referral services principally on or through the Internet.

44 e. "Internet service provider" means any person, business or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SLP committee amendments adopted February 26, 2007.

²Assembly floor amendments adopted December 13, 2007.

1 organization qualified to do business in this State that provides
2 individuals, corporations, or other entities with the ability to
3 connect to the Internet through equipment that is located in this
4 State.

5 f. "Member" means a customer, client or participant who
6 submits to an Internet dating service information required to access
7 the service for the purpose of engaging in dating, relationship,
8 compatibility, matrimonial or social referral.

9 g. "New Jersey member" means a member who provides a New
10 Jersey billing address or zip code when registering with the service.

11 h. "Criminal conviction" means a conviction for any crime
12 including but not limited to any sex offense that would qualify the
13 offender for registration pursuant to section 2 of P.L.1994, c.133
14 (C.2C:7-2) or under another jurisdiction's equivalent statute.

15

16 4. An Internet dating service offering services to New Jersey
17 members shall:

18 a. Provide safety awareness notification that includes, at
19 minimum, a list and description of safety measures reasonably
20 designed to increase awareness of safer dating practices as
21 determined by the service. Examples of such notifications include:

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

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

26 (3) "Never include your last name, e-mail address, home
27 address, phone number, place of work, or any other identifying
28 information in your Internet profile or initial e-mail messages. Stop
29 communicating with anyone who pressures you for personal or
30 financial information or attempts in any way to trick you into
31 revealing it."

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

37 b. If an Internet dating service does not conduct criminal
38 background screenings on its members, the service shall disclose,
39 clearly and conspicuously, to all New Jersey members that the
40 Internet dating service does not conduct criminal background
41 screenings. The disclosure shall be provided ²in two or more of the
42 following forms:² when an electronic mail message is sent or
43 received by a New Jersey member, ²in a "click-through" or other
44 similar presentation requiring a member from this state to
45 acknowledge that they have received the information required by
46 this act,² on the profile describing a member to a New Jersey
47 member, and on the web-site pages ²or homepage² of the Internet
48 dating service used when a New Jersey member signs up. A

1 disclosure under this subsection shall be in bold, capital letters in at
2 least 12-point type.

3 c. If an Internet dating service conducts criminal background
4 screenings on all of its communicating members, then the service
5 shall disclose, clearly and conspicuously, to all New Jersey
6 members that the Internet dating service conducts a criminal
7 background screening on each member prior to permitting a New
8 Jersey member to communicate with another member. The
9 disclosure shall be provided on the website pages used when a New
10 Jersey member signs up. A disclosure under this subsection shall be
11 in bold, capital letters in at least 12-point type.

12 d. If an Internet dating service conducts criminal background
13 screenings, then the service shall disclose whether it has a policy
14 allowing a member who has been identified as having a criminal
15 conviction to have access to its service to communicate with any
16 New Jersey member; shall state that criminal background
17 screenings are not foolproof; that they may give members a false
18 sense of security; that they are not a perfect safety solution; **'[and]'**
19 that criminals may circumvent even the most sophisticated search
20 technology; that not all criminal records are public in all states and
21 not all databases are up to date; that only publicly available
22 convictions are included in the screening; and that screenings do not
23 cover other types of convictions or arrests or any convictions from
24 foreign countries.

25
26 5. **'[a. An] It shall be an unlawful practice and a violation of**
27 **P.L.1960, c.39 (C.56:8-1 et. seq.) for an** Internet dating service
28 **'[that fails]'** to **'fail to'** provide notice or **'[that]'** falsely
29 **'[indicates] indicate'** that **'[they have] it has'** performed criminal
30 background screenings in accordance with this act **'[shall be liable**
31 **for a civil penalty of not less than \$10,000 for each day during**
32 **which a violation occurs]'**.

33 **'[b. In lieu of an administrative proceeding or an action in the**
34 **Superior Court, the Attorney General may bring an action for the**
35 **collection or enforcement of civil penalties for the violation of any**
36 **provision of this act. The action may be brought in a summary**
37 **manner, pursuant to the "Penalty Enforcement Law of 1999,"**
38 **P.L.1999, c.274 (C.2A:58-10 et seq.) and the Rules Governing the**
39 **Courts of the State of New Jersey governing actions for the**
40 **collection of civil penalties.**

41 c. Penalties provided for under this section shall be used by the
42 Attorney General for costs incurred in prosecuting any crimes
43 involving computers which are used to facilitate the crime.]'
44

45 6. An Internet service provider does not violate this act solely
46 as a result of serving as an intermediary for the transmission of
47 electronic messages between members of an Internet dating service.

1 7. The director, in consultation with the Attorney General and
2 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
3 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate
4 the purposes of this act ¹【concerning access to and dissemination of
5 information obtained as a result of conducting a criminal history
6 background screening】¹.

7
8 8. This act shall take effect on the 120th day after enactment,
9 except the director may take such anticipatory administrative action
10 in advance as shall be necessary for the implementation of this act.