

BILL ANALYSIS

Senate Research Center
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S.B. 337
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, there are approximately 2.5 million subscribers to online dating services nationwide. The number of subscribers is expected to double within the next two to three years. Online dating services provide a person with an efficient, low-cost method of finding millions of potential candidates for courtship. By utilizing scientifically derived compatibility tests and demographic preferences, a person can quickly filter through millions of candidates to find the persons whom they would most like to contact.

Unfortunately, not everyone utilizing these services is completely honest about their personal history or reasons for participating in online dating services. Criminal predators can hide behind the cloak of anonymity. Recently, the media have reported an increase in crimes related to online dating.

As proposed, S.B. 337 protects online dating consumers from unknowingly being set up with someone who could be a sexual predator or convicted felon. S.B. 337 allows an online dating service the choice of either conducting criminal background checks or disclosing that it has not performed background checks. The bill provides for civil penalties for a dating service that neither performs background checks nor discloses that the checks have not been performed. Immunity from civil liability is granted to companies that exercise either of these choices.

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 Chapter 35, Business & Commerce Code, by adding Subchapter L, as follows:

SUBCHAPTER L. ONLINE RELATIONSHIP SERVICE SAFETY

Sec. 35.131. DEFINITIONS. Defines "communicate," "online relationship service," and "online relationship service provider."

Sec. 35.132. CONDUCT OF CRIMINAL DATABASE SEARCH OR FEDERAL CRIMINAL BACKGROUND CHECK. (a) Provides that an online relationship provider (provider) conducts a criminal database search on a person for purposes of this subchapter if the provider conducts a search for the person's felony and sexual offense convictions through certain regularly-updated databases.

(b) Provides that a provider conducts a federal criminal background check on a person for the purposes of this subchapter if the provider obtains any available criminal history record information regarding the person from a system that is maintained by the Federal Bureau of Investigation (FBI) and based on fingerprint identification or another method of positive identification used by the FBI.

Sec. 35.133. CONDUCT OF OR DISCLOSURE REGARDING CRIMINAL DATABASE SEARCH OR FEDERAL CRIMINAL BACKGROUND CHECK REQUIRED. Requires a provider that offers, provides access to, or promotes online

relationship services to a resident of this state to conduct a criminal database search and a federal criminal background check and disclose that information to each person who uses the service.

Sec. 35.134. DISCLOSURE OF FAILURE TO CONDUCT CRIMINAL DATABASE SEARCH OR FEDERAL CRIMINAL BACKGROUND CHECK. (a) Requires a provider that has not conducted the proper background checks on each person who uses the service to communicate to prominently disclose in certain places the provider's failure to conduct the searches.

(b) Requires a disclosure under Subsection (a)(1) or (3) to state a certain message in bold, capital letters in at least 12-point type.

(c) Requires a disclosure under Subsection (a)(2) to state a certain message in bold, capital letters in at least 12-point type.

Sec. 35.135. DISCLOSURE BY PROVIDER THAT CONDUCTS CRIMINAL DATABASE SEARCHES OR FEDERAL CRIMINAL BACKGROUND CHECKS. (a) Requires a provider that conducts the proper background checks for each person who uses the provider's online relationship service to communicate to provide a disclosure through a readily accessible link on the home page of the provider's website that includes certain information.

(b) Requires the provider to prominently disclose a certain message in the profile of each resident of the state identified as having a felony or other sexual offense conviction if the provider does not exclude from its website all person identified as such.

Sec. 35.136. CIVIL ACTION. (a) Authorizes a person injured as a result of a violation of this subchapter to bring a civil action to recover certain related costs.

(b) Provides that a provider is not liable under this section if the provider meets certain requirements.

Sec. 35.137. CRIMINAL OFFENSE. (a) Provides that a person, including an entity, who violates this subchapter commits an offense.

(b) Provides that an offense under this section is a misdemeanor punishable by a fine not to exceed \$250 for each day on which the offense is committed.

(c) Provides that each person for whom a provider does not meet the requirements of this subchapter constitutes a separate offense.

(d) Provides that it is a defense to prosecution under this section that the provider meets certain requirements.

Sec. 35.138. ENFORCEMENT BY ATTORNEY GENERAL. Authorizes the attorney general to file a civil action to enforce this subchapter.

SECTION 2. Requires a provider to comply with Subchapter L, Chapter 35, Business & Commerce Code, as added by this Act, not later than September 1, 2005.

SECTION 3. Effective date: September 1, 2005.