

# SENATE BILL No. 286

March 3, 2005, Introduced by Senator CROPSEY 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 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 means:

4           (i) Through any criminal history record systems available to  
5 the public and maintained by each of the 50 states and the District  
6 of Columbia.

7           (ii) Through a private vendor whose database contains more than  
8 170,000,000 criminal records that are otherwise available to the  
9 public, has substantially national coverage, is updated at least

1 once every 90 days, and is operated and maintained in the United  
2 States.

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

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

12 Sec. 2. An online dating service provider that provides  
13 services to residents of this state shall do 1 of the following:

14 (a) Disclose prominently on the provider's home page, not more  
15 than 3 inches from the top of the website, that the online dating  
16 service provider has not conducted criminal background checks on  
17 persons using its service. The disclosure shall state the  
18 following:

19 **"WARNING: [NAME OF PROVIDER] HAS NOT CONDUCTED FELONY OR**  
20 **SEXUAL OFFENSE BACKGROUND CHECKS ON ITS MEMBERS."**

21 (b) If the provider conducts criminal background checks as  
22 described in section 1(a)(i), display prominently on the provider's  
23 home page, not more than 3 inches from the top of the website, a  
24 disclosure that states the following:

25 **"WARNING: BASED SOLELY ON THE NAME PROVIDED BY THE MEMBER,**  
26 **[NAME OF PROVIDER] HAS CONDUCTED A CRIMINAL BACKGROUND CHECK**  
27 **THROUGH CRIMINAL HISTORY RECORD SYSTEMS AVAILABLE TO THE**

1 PUBLIC AND MAINTAINED BY EACH OF THE 50 STATES AND THE  
2 DISTRICT OF COLUMBIA." .

3 (c) If the provider conducts criminal background checks as  
4 described in section 1(a)(ii), display prominently on the provider's  
5 home page, not more than 3 inches from the top of the website, a  
6 disclosure that states the following:

7 "WARNING: BASED SOLELY ON THE NAME PROVIDED BY THE MEMBER,  
8 [NAME OF PROVIDER] HAS CONDUCTED A CRIMINAL BACKGROUND CHECK  
9 THROUGH A PRIVATE VENDOR WHOSE RECORDS MAY NOT INCLUDE ALL  
10 CONVICTIONS FROM ALL JURISDICTIONS. CONTACT [NAME OF PROVIDER]  
11 FOR INFORMATION REGARDING WHICH JURISDICTIONS ARE INCLUDED." .

12 Sec. 3. (1) Subject to the requirements of this act, an online  
13 dating service provider shall establish a policy on what actions  
14 the provider will initiate as a result of information obtained  
15 through a criminal background check.

16 (2) A copy of the policy established under subsection (1)  
17 shall be made available to each person that applies for membership  
18 with the provider.

19 (3) Before a person is accepted for membership with the  
20 provider, the person shall be required to acknowledge that they  
21 have had an opportunity to review the policy established under  
22 subsection (1).

23 (4) The provider's home page shall contain a link that will  
24 allow a person to review the policy established under subsection  
25 (1). An online dating service provider shall update the criminal  
26 background check for each member at least once every 90 days.

27 Sec. 4. (1) A person that violates this act is guilty of a

1 misdemeanor punishable by a fine of \$250.00 for each day that the  
2 person is in violation of this act. It is a separate violation  
3 under this subsection for each person the provider fails to provide  
4 a notice as required under this act.

5 (2) A civil action may be brought by the attorney general or  
6 by a person that suffers damages as a result of a violation of this  
7 act. In an action brought under this subsection, the attorney  
8 general or a person may recover actual costs, actual and reasonable  
9 attorney fees, and the lesser of the following:

10 (a) Actual damages.

11 (b) \$500,000.00.

12 Sec. 5. A provider does not violate this act as a result of  
13 being an intermediary between the sender and recipient in the  
14 transmission of a message that violates this act.

15 Enacting section 1. This act takes effect July 1, 2005.