

BUSINESS AND COMMERCE CODE
TITLE 5. REGULATION OF BUSINESSES AND SERVICES
SUBTITLE C. BUSINESS OPERATIONS
CHAPTER 106. INTERNET DATING SAFETY ACT

Sec. 106.001. DEFINITIONS. In this chapter:

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

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 27 (S.B. 488), Sec. 1, eff. September 1, 2011.

Sec. 106.002. APPLICABILITY OF CHAPTER. 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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 27 (S.B. 488), Sec. 1, eff. September 1, 2011.

Sec. 106.003. CONDUCT OF CRIMINAL BACKGROUND CHECK.

(a) For 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, Code of

Criminal Procedure; and

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

(b) The name search described by Subsection (a) must 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).

Added by Acts 2011, 82nd Leg., R.S., Ch. 27 (S.B. 488), Sec. 1, eff. September 1, 2011.

Sec. 106.004. DISCLOSURE BY PROVIDER THAT DOES NOT CONDUCT CRIMINAL BACKGROUND CHECK. (a) 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 shall clearly and conspicuously disclose to all Texas members that the provider does not conduct criminal background checks, as described by Section 106.003.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 27 (S.B. 488), Sec. 1, eff. September 1, 2011.

Sec. 106.005. DISCLOSURES BY PROVIDER THAT CONDUCTS CRIMINAL BACKGROUND CHECKS. (a) 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 shall 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) An online dating service provider that offers services to residents of this state and conducts a criminal background check on each member shall 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) a felony offense;

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

(C) 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) a statement that:

(A) criminal background checks are not foolproof;

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

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

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

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

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

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 27 (S.B. 488), Sec. 1, eff.

September 1, 2011.

Sec. 106.006. SAFETY AWARENESS DISCLOSURE BY ALL PROVIDERS. An online dating service provider that offers services to residents of this state shall 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. Examples of the safety awareness notification include the following statements or substantially similar statements:

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

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

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

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 27 (S.B. 488), Sec. 1, eff. September 1, 2011.

Sec. 106.007. CIVIL PENALTY; INJUNCTION. (a) 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) The attorney general may:

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

(2) bring suit to recover the civil penalty imposed

under Subsection (a).

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 27 (S.B. 488), Sec. 1, eff. September 1, 2011.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 27 (S.B. 488), Sec. 1, eff. September 1, 2011.