

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 337  
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Criminal Justice  
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Committee Report (Substituted)

### **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.

C.S.S.B. 337 protects online dating consumers from unknowingly being set up with someone who could be a sexual predator or convicted felon. C.S.S.B. 337 requires an online dating service provider 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.

### **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 INTERNET DATING DISCLOSURES AND SAFETY AWARENESS ACT**

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

Sec. 35.132. APPLICABILITY. Provides this subchapter does not apply to certain Internet service providers.

Sec. 35.133. CONDUCT OF CRIMINAL BACKGROUND CHECK. Provides that an online dating service provider conducts a criminal background check on a person for purposes of this subchapter if the provider initiates a search for the person's felony and sexual offense convictions conducted by searching certain databases.

Sec. 35.134. 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 member who is a resident of this state to communicate through the provider with another member to clearly and conspicuously disclose to all members who are residents of this state that the provider does not conduct criminal background checks, as described by Section 35.133.

(b) Sets forth requirements for the disclosure required by this section.

Sec. 35.135. DISCLOSURE 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 member who is a resident of this state to communicate through the provider with another member to clearly and conspicuously disclose to all members who are residents of this state that the provider conducts a criminal background check, as described by Section 35.133, on each member before permitting a member who is a resident of this state to communicate through the provider with another member.

(b) Sets forth requirements for a disclosure required by this section.

Sec. 35.136. ENFORCEMENT BY ATTORNEY GENERAL. (a) Requires the attorney general to send written notice to an online dating service provider who violates this subchapter informing the provider of the violation.

(b) Provides that an online dating service provider who violates this subchapter is liable to the state for a civil penalty not to exceed \$50,000 for each day that a violation of this subchapter occurs after the 30th day after the date the provider receives notice under Subsection (a).

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

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

Sec. 35.137. DECEPTIVE TRADE PRACTICE. Provides that a violation of this subchapter is considered a false, misleading, or deceptive act or practice for purposes of Section 17.46(a) (Deceptive Trade Practices Unlawful), and is subject to action only by the consumer protection division of the attorney general's office.

SECTION 2. Requires an online dating service 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.