

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred House Bill No. 84 entitled “An act relating to Internet
4 dating services” respectfully reports that it has considered the same and
5 recommends that the Senate propose to the House that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof:

7 Sec. 1. FINDINGS AND PURPOSE

8 (a) The General Assembly finds:

9 (1) Currently, an Internet dating service does not have an affirmative
10 duty under any state or federal law to ban a member of the service, but a
11 service may choose to voluntarily ban a member for violating one or more
12 terms of use, or because the service determines the member poses a risk of
13 defrauding another member.

14 (2) In 2014, Internet dating services banned millions of members, the
15 vast majority of which were banned within 72 hours of creating an account
16 with the service.

17 (3) Of the members banned in 2014, well less than one percent
18 contacted the Internet dating service concerning the ban.

19 (4) Due to a growing number of cases in which Vermont members of
20 Internet dating services have lost significant financial amounts to persons using
21 Internet dating services to defraud members or businesses, the Office of the

1 Vermont Attorney General proposes this legislation, working with the input of
2 multiple Internet dating services and other stakeholders.

3 (5) If an Internet dating service violates the statutory provisions created
4 in this act, the Attorney General has the authority pursuant to 9 V.S.A. §§ 2458
5 and 2459 to request from a court, or to settle with the service for, restitution for
6 a consumer or class of consumers affected by the violation.

7 (b) Purpose. The purposes of this act are:

8 (1) to protect Vermont consumers by requiring an Internet dating service
9 to disclose in a timely manner important information about banned members to
10 Vermont members of the service;

11 (2) to protect Internet dating services from liability to members for
12 disclosing the information required by this act, while preserving liability to the
13 State of Vermont and its agencies, departments, and subdivisions for violating
14 this act; and

15 (3) to protect Vermont consumers and other members of Internet dating
16 services by requiring an Internet dating service to notify its Vermont members
17 when there is a significant change to the Vermont member's account
18 information.

1 Sec. 2. 9 V.S.A. chapter 63, subchapter 8 is added to read:

2 Subchapter 8. Internet Dating Services

3 § 2482a. DEFINITIONS

4 In this chapter:

5 (1) “Account change” means a change to a member’s password,
6 username, e-mail address, or other contact information an Internet dating
7 service uses to enable communications between members.

8 (2) “Banned member” means the member whose account or profile is
9 the subject of a fraud ban.

10 (3) “Fraud ban” means barring a member’s account or profile from an
11 Internet dating service because, in the judgment of the service, the member
12 poses a significant risk of attempting to obtain money from other members
13 through fraudulent means.

14 (4) “Internet dating service” means a person, or a division of a person,
15 that is primarily in the business of providing dating services principally on or
16 through the Internet.

17 (5) “Member” means a person who submits to an Internet dating service
18 information required to access the service and who obtains access to the
19 service.

1 (6) “Vermont member” means a member who provides a Vermont
2 residential or billing address or zip code when registering with the Internet
3 dating service.

4 § 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

5 (a) An Internet dating service shall disclose to all of its Vermont members
6 known to have previously received and responded to an on-site message from a
7 banned member:

8 (1) the user name, identification number, or other profile identifier of the
9 banned member;

10 (2) the fact that the banned member was banned because, in the
11 judgment of the Internet dating service, the banned member may have been
12 using a false identity or may pose a significant risk of attempting to obtain
13 money from other members through fraudulent means;

14 (3) that a member should never send money or personal financial
15 information to another member; and

16 (4) a hyperlink to online information that clearly and conspicuously
17 addresses the subject of how to avoid being defrauded by another member of
18 an Internet dating service.

19 (b) The notification required by subsection (a) of this section shall be:

20 (1) clear and conspicuous;

1 (2) by e-mail, text message, or other appropriate means of
2 communication; and

3 (3) sent within 24 hours after the fraud ban, or at a later time if the
4 service has determined, based on an analysis of effective messaging, that a
5 different time is more effective, but in no event later than three days after the
6 fraud ban.

7 (c) An Internet dating service shall disclose in an e-mail, text message, or
8 other appropriate means of communication, in a clear and conspicuous manner,
9 within 24 hours after discovering an account change to a Vermont member's
10 account:

11 (1) the fact that information on the member's account has been changed;

12 (2) a brief description of the change; and

13 (3) if applicable, how the member may obtain further information on
14 the change.

15 § 2482c. LIMITED IMMUNITY

16 (a) An Internet dating service shall not be liable to any person, other than
17 the State of Vermont, or any agency, department, or subdivision of the State,
18 for disclosing to any member that it has banned a member, the user name or
19 identifying information of the banned member, or the reasons for the Internet
20 dating service's decision to ban such member.

1 (b) An Internet dating service shall not be liable to any person, other than
2 the State of Vermont, or any agency, department, or subdivision of the State,
3 for the decisions regarding whether to ban a member, or how or when to notify
4 a member pursuant to section 2482b of this title.

5 (c) This subchapter does not diminish or adversely affect the protections
6 for Internet dating services that are afforded in 47 U.S.C. § 230 (Federal
7 Communications Decency Act).

8 § 2482d. VIOLATIONS

9 (a) A person who violates this subchapter commits an unfair and deceptive
10 act in trade and commerce in violation of section 2453 of this title.

11 (b) The Attorney General has the same authority to make rules, conduct
12 civil investigations, and enter into assurances of discontinuance as is provided
13 under subchapter 1 of this chapter.

14 Sec. 3. EFFECTIVE DATES

15 (a) This section and 9 V.S.A. §§ 2482a, 2482c, and 2482d in Sec. 2 shall
16 take effect on passage.

17 (b) In Sec. 2, 9 V.S.A. § 2482b shall take effect on January 1, 2017.

18 (Committee vote: _____)

19 _____

20 Senator _____

21 FOR THE COMMITTEE