

HB0018S01 compared with HB0018

~~{deleted text}~~ shows text that was in HB0018 but was deleted in HB0018S01.

inserted text shows text that was not in HB0018 but was inserted into HB0018S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Angela Romero proposes the following substitute bill:

ONLINE DATING SAFETY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: _____

LONG TITLE

~~{Committee Note:~~

~~_____The Law Enforcement and Criminal Justice Interim Committee recommended this bill.~~

~~_____Legislative Vote: 10 voting for 0 voting against _____7 absent~~

~~{General Description:~~

This bill concerns online dating service safety requirements.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires certain safety notifications and disclosures by an online dating service provider;
- ▶ provides enforcement procedures and a penalty for a violation of the notifications and disclosures; and

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- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Effective 12/31/23), as last amended by Laws of Utah 2022, Chapters 201, 462

ENACTS:

13-63-101, Utah Code Annotated 1953

13-63-102, Utah Code Annotated 1953

13-63-103, Utah Code Annotated 1953

13-63-104, Utah Code Annotated 1953

13-63-105, Utah Code Annotated 1953

13-63-106, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-2-1 (Effective 12/31/23)** is amended to read:

13-2-1 (Effective 12/31/23). Consumer protection division established --

Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;
- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;

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- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 41, Price Controls During Emergencies Act;
- (p) Chapter 42, Uniform Debt-Management Services Act;
- (q) Chapter 49, Immigration Consultants Registration Act;
- (r) Chapter 51, Transportation Network Company Registration Act;
- (s) Chapter 52, Residential Solar Energy Disclosure Act;
- (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- (u) Chapter 54, Ticket Website Sales Act;
- (v) Chapter 56, Ticket Transferability Act;
- (w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]
- (x) Chapter 61, Utah Consumer Privacy Act[?]; and
- (y) Chapter 63, Online Dating Safety Act.

Section 2. Section **13-63-101** is enacted to read:

CHAPTER 63. ONLINE DATING SAFETY ACT

13-63-101. Definitions.

As used in this chapter:

- (1) "Banned member" means a member whose account or profile is the subject of a fraud ban.
- (2) "Criminal background screening" means a name search for an individual's criminal conviction and is conducted by searching:
 - (a) available and regularly updated government public record databases that in the aggregate provide national coverage for criminal conviction records; or
 - (b) a regularly updated database with national coverage of criminal conviction records and sexual offender registries maintained by a private vendor.
- (3) (a) "Criminal conviction" means a conviction for a crime in this state, another state,

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or under federal law.

(b) "Criminal conviction" includes an offense that would require registration under Title 77, Chapter 41, Sex and Kidnap Offender Registry, or under a similar law in a different jurisdiction.

(4) "Division" means the Division of Consumer Protection in the Department of Commerce.

(5) "Fraud ban" means the expulsion of a member from an online dating service because, in the judgment of the online dating service provider, there is a significant risk the member will attempt to obtain money from another member through fraudulent means.

(6) "Member" means an individual who submits to an online dating service provider the information required by the online dating service provider to access the online dating service provider's online dating service.

(7) "Online dating service" means a product or service that is:

(a) ~~is~~ conducted through a website or a mobile application; and

(b) ~~offers~~ primarily marketed and intended to offer a member access to dating or romantic relationships with another member by arranging or facilitating the social introduction of members.

(8) "Online dating service provider" means a person predominately engaged in the business of offering an online dating service.

(9) "Utah member" means a member who provides a Utah billing address or zip code when registering with an online dating service provider.

Section 3. Section **13-63-102** is enacted to read:

13-63-102. Applicability of chapter.

This chapter does not apply to an Internet service provider serving as an intermediary for a transmission of an electronic message between members of an online dating service provider.

Section 4. Section **13-63-103** is enacted to read:

13-63-103. Criminal background screening disclosures.

(1) An online dating service provider that offers services to residents of this state and does not conduct a criminal background screening on each member shall, before permitting a Utah member to communicate through the online dating service provider with another member,

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clearly and conspicuously disclose to the Utah member that the online dating service provider does not conduct a criminal background screening on each member.

(2) An online dating service provider that offers services to residents of this state and conducts a criminal background screening on each member shall, before permitting a Utah member to communicate through the provider with another member, clearly and conspicuously:

(a) disclose to the Utah member that the online dating service provider conducts a criminal background screening on each member; and

(b) include on the online dating service provider's website or mobile application:

(i) a statement of whether the online dating service provider excludes from the online dating service provider's online dating service an individual who is identified as having a criminal conviction; and

(ii) a statement that a criminal background screening:

(A) may be inaccurate or incomplete;

(B) may give a member a false sense of security; and

(C) may be circumvented by an individual who has a criminal history.

Section 5. Section **13-63-104** is enacted to read:

13-63-104. Safety awareness disclosures.

(1) An online dating service provider that offers services to residents of this state shall clearly and conspicuously provide a safety awareness notification to all Utah members that includes a list of safety measures reasonably designed to increase awareness of safer online dating practices and clear guidelines and resources for reporting crimes committed by an online dating service member.

(2) (a) A safety awareness notification described in Subsection (1) shall:

(i) have a heading or headings substantially similar to:

(A) "Online Dating Safety Awareness";

(B) "Protecting Yourself from Sexual Assault and Dating Violence"; and

(C) "Protecting Yourself from Financial Crimes"; and

(ii) include information relevant to member safety awareness, including the following or substantially similar information, which may be revised or updated to reflect current information and best safety practices:

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(A) a notice that engaging in sexual conduct without the other person's consent is a criminal act and subject to prosecution;

(B) an advisory that getting to know an individual through an online dating service may be risky and a member should follow safety precautions when sharing information or meeting in person;

(C) an advisory that a member should avoid sharing the member's last name, email address, home address, phone number, place of work, social security number, details of the member's daily routine, or other identifying information in the member's dating profile or initial email messages or communications;

(D) an advisory that a member should stop communicating with an individual who pressures the member for personal or financial information or attempts to trick the member into revealing personal or financial information;

(E) an advisory that a member should not send money to an individual the member meets on an online dating service, especially by wire transfer, even if the individual claims to be experiencing an emergency;

(F) an advisory that if a member decides to meet another member in person, the member should tell someone in the member's family or a friend where the member is going and when the member is planning to return;

(G) an advisory that a member should provide the member's own transportation to and from an in-person date and meet in a public place with many people around;

(H) an advisory that an individual may provide false information in a dating profile;

(I) a notice that a member should block and report to the online dating service a member whose behavior is suspicious, offensive, harassing, threatening, fraudulent, or involves a request for money or an attempt to sell a product or service;

(J) a request that if a member is the victim or survivor of sexual or intimate partner violence or a financial crime through someone the member met on the online dating service, the member should report the incident to the online dating service and to law enforcement;

(K) a notice that if a member is the victim or survivor of sexual or intimate partner violence or a financial crime through someone the member met on the online dating service, the member is not to blame and may seek support through national or local hotlines and services; and

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(L) an advisory that reporting criminal activity by another member may help prevent a perpetrator of a rape, assault, or financial crime from hurting or continuing to hurt others, and may be necessary for an online dating service to take responsive action against the member who perpetrated the crime.

(b) (i) An online dating service provider shall provide a clear and conspicuous method for a Utah member to contact the online dating service provider to report a member who engages in an act of sexual or intimate partner violence ~~{ or }~~ a financial crime, or other misconduct.

(ii) An online dating service provider shall include the information described in Subsection (2)(b)(i) in the safety awareness notification described in Subsection (1).

(3) An online dating service provider that provides the notification required under this section shall give the notification at the time a Utah member registers with the online dating service provider and by way of a link on the online dating service provider's main website or mobile application.

Section 6. Section **13-63-105** is enacted to read:

13-63-105. Fraud ban notification.

(1) An online dating service provider shall provide to a Utah member a fraud ban notification if the Utah member has received and responded to a message from a banned member.

(2) A fraud ban notification under Subsection (1) shall include:

(a) to the extent permitted by law, the banned member's username, identification number, or other profile identifier;

(b) a statement that the banned member may have been using a false identity or attempting to defraud members;

(c) a statement that a member should not send money or personal financial information to another member; and

(d) an online link to information regarding ways to avoid online fraud or being defrauded by a member of an online dating service.

(3) A fraud ban notification under Subsection (1) shall be:

(a) clear and conspicuous;

(b) sent by email, text message, or other appropriate means of communication

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consented to by the Utah member; and

(c) (i) except as provided in Subsection (3)(c)(ii), sent within 24 hours after a fraud ban is initiated against a banned member; or

(ii) sent within three days after the day on which a fraud ban is initiated against a banned member if, in the judgment of the online dating service provider, the circumstances require the fraud ban notification be sent after the 24-hour period.

(4) ~~{(a)}~~ Except as provided in Section 13-63-106, an online dating service provider or an online dating service provider's employees and agents who are acting in good faith and in compliance with this section are not liable to a person based on:

~~{(i)}~~a) the means of communication used to issue a fraud ban notification to a Utah member under this section;

~~{(ii)}~~b) the timing of a fraud ban notification sent to a Utah member under this section;

or

~~{(iii)}~~c) the disclosure of information in a fraud ban notification under this section,

including:

~~{(A)}~~i) information that a member is a banned member or the subject of a fraud ban;

~~{(B)}~~ii) the banned member's username, identification number, or other profile

identifier; or

~~{(C)}~~iii) the reason that the online dating service provider initiated the fraud ban of the banned member.

~~{ } (b) This section does not create a private right of action or diminish or adversely affect protections for an online dating service provider under 47 U.S.C. Sec. 230.~~

~~{ } Section 7. Section 13-63-106 is enacted to read:~~

~~13-63-106. ~~{ Violation--Enforcement}~~ **Violation -- Enforcement -- Limitations.**~~

(1) (a) The division may enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.

(b) In addition to the division's enforcement powers under Subsection (1)(a), a municipal, county, or state prosecuting authority may enforce this chapter through a civil action if the prosecuting authority is screening or prosecuting a criminal matter based on sexual or intimate partner violence or a financial crime perpetrated against a Utah member by an individual the Utah member met on an online dating service.

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(2) (a) An online dating service provider that violates this chapter is, in addition to any other penalties established by law, liable for:

(i) a civil penalty not to exceed \$250 for each Utah member at the time of the violation;

and

(ii) filing fees and reasonable attorney fees.

(b) A court shall enjoin an online dating service provider who violates this chapter from an additional violation of this chapter.

(3) This chapter does not:

(a) provide a basis for or create a private right of action; or

(b) diminish or adversely affect protections for an online dating service provider under

47 U.S.C. Sec. 230.

Section 8. Effective date.

This bill takes effect on January 1, 2024 with the exception of ~~{Section }~~13-2-1 ~~{(Effective 12/31/23)}~~ which takes effect on 12/31/2023.