

By: Williams

S.B. No. 1289

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain business entities engaged in the publication or
3 other dissemination of mug shots and other information regarding
4 the involvement of an individual in the criminal justice system;
5 providing a civil penalty.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is
8 amended by adding Chapter 109 to read as follows:

9 CHAPTER 109. BUSINESS ENTITIES ENGAGED IN PUBLICATION OR OTHER
10 DISSEMINATION OF CRIMINAL RECORD INFORMATION

11 Sec. 109.001. DEFINITIONS. In this chapter:

12 (1) "Criminal justice agency" has the meaning assigned
13 by Section 411.082, Government Code.

14 (2) "Criminal record information" means information
15 about a person's involvement in the criminal justice system. The
16 term includes:

17 (A) a description or notation of any arrests, any
18 formal criminal charges, and the dispositions of those criminal
19 charges;

20 (B) a photograph of the person taken pursuant to
21 an arrest or other involvement in the criminal justice system; and

22 (C) personal identifying information of a person
23 displayed in conjunction with any other record of the person's
24 involvement in the criminal justice system.

1 (3) "Personal identifying information" means
2 information that alone or in conjunction with other information
3 identifies a person, including a person's name, address, date of
4 birth, photograph, and social security number or other
5 government-issued identification number.

6 Sec. 109.002. APPLICABILITY OF CHAPTER. This chapter
7 applies to a business entity that:

8 (1) publishes or otherwise disseminates, including
9 through a print or electronic medium, criminal record information,
10 including information:

11 (A) originally obtained pursuant to a request for
12 public information under Chapter 552, Government Code; or

13 (B) purchased or otherwise obtained by the entity
14 or an affiliated business entity from the Department of Public
15 Safety under Subchapter F, Chapter 411, Government Code; and

16 (2) requires the payment of a fee or other
17 consideration to remove, correct, or modify criminal record
18 information.

19 Sec. 109.003. DUTY TO DISSEMINATE COMPLETE AND ACCURATE
20 CRIMINAL RECORD INFORMATION. (a) A business entity must ensure
21 that criminal record information the entity publishes or otherwise
22 disseminates is complete and accurate.

23 (b) For purposes of this chapter, criminal record
24 information published or otherwise disseminated by a business
25 entity is considered:

26 (1) complete if the information reflects the notations
27 of arrest and the filing and disposition of criminal charges, if

1 applicable; and

2 (2) accurate if the information:

3 (A) reflects the most recent information
4 received by the entity from the Department of Public Safety in
5 accordance with Section 411.0851(b)(1)(B), Government Code; or

6 (B) was obtained by the entity from a law
7 enforcement agency or criminal justice agency, including the
8 Department of Public Safety, or any other governmental agency or
9 entity within the 90-day period preceding the date of publication
10 or other dissemination.

11 Sec. 109.004. DISPUTING COMPLETENESS OR ACCURACY OF
12 INFORMATION. (a) A business entity shall clearly and
13 conspicuously publish an e-mail address, fax number, or mailing
14 address to enable a person who is the subject of criminal record
15 information published or otherwise disseminated by the entity to
16 dispute the completeness or accuracy of the information.

17 (b) If a business entity receives a dispute regarding the
18 completeness or accuracy of criminal record information from a
19 person who is the subject of the information, the business entity
20 shall:

21 (1) promptly investigate free of charge the disputed
22 information; and

23 (2) complete the investigation described by
24 Subdivision (1) not later than the 45th business day after the date
25 on which the entity receives notice of the dispute.

26 (c) If a business entity finds incomplete or inaccurate
27 criminal record information after conducting an investigation

1 prescribed by this section, the entity shall promptly remove the
2 inaccurate information from the website, publication, or other mode
3 of dissemination or shall promptly correct the information, as
4 applicable. The entity may not:

5 (1) charge a fee to remove, correct, or modify
6 incomplete or inaccurate information; or

7 (2) continue to publish or otherwise disseminate
8 incomplete or inaccurate information.

9 (d) A business entity shall provide written notice to the
10 person who disputed the completeness or accuracy of information of
11 the results of an investigation conducted under this section not
12 later than the fifth business day after the date on which the
13 investigation is completed.

14 Sec. 109.005. PUBLICATION OR OTHER DISSEMINATION OF CERTAIN
15 CRIMINAL RECORD INFORMATION PROHIBITED; CIVIL LIABILITY. (a) A
16 person may not publish or otherwise disseminate any criminal record
17 information in the person's possession with respect to which the
18 person has knowledge or has received notice that:

19 (1) an order of expunction has been issued under
20 Article 55.02, Code of Criminal Procedure; or

21 (2) an order of nondisclosure has been issued under
22 Section 411.081(d), Government Code.

23 (b) A person who disseminates information in violation of
24 Subsection (a) is liable to the individual who is the subject of the
25 information in an amount not to exceed \$1,000 for each separate
26 violation and, in the case of a continuing violation, \$500 for each
27 subsequent day on which the violation occurs.

1 (c) In an action brought under this section, the court may
2 grant injunctive relief to prevent or restrain a violation of this
3 section.

4 (d) An individual who prevails in an action brought under
5 this section is also entitled to recover court costs and reasonable
6 attorney's fees.

7 Sec. 109.006. CIVIL PENALTY; INJUNCTION. (a) A business
8 entity that publishes or otherwise disseminates criminal record
9 information in violation of this chapter is liable to the state for
10 a civil penalty in an amount not to exceed \$1,000 for each
11 violation. For purposes of this subsection, each criminal record
12 published or disseminated in violation of this chapter constitutes
13 a separate violation.

14 (b) The attorney general or an appropriate prosecuting
15 attorney may sue to collect a civil penalty under this section.

16 (c) A civil penalty collected under this section shall be
17 deposited in the state treasury to the credit of the general revenue
18 fund.

19 (d) The attorney general may bring an action in the name of
20 the state to restrain or enjoin a violation or threatened violation
21 of this chapter.

22 SECTION 2. Chapter 109, Business & Commerce Code, as added
23 by this Act, applies to any publication or other dissemination of
24 criminal record information that occurs on or after the effective
25 date of this Act, regardless of whether:

26 (1) the information relates to events or activities
27 that occurred before, on, or after that date; or

1 (2) the information was initially published or
2 otherwise disseminated before that date.

3 SECTION 3. This Act takes effect September 1, 2013.