

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: McClendon

H.B. No. 1491

A BILL TO BE ENTITLED

AN ACT

relating to the publication of confidential criminal and juvenile justice records of certain juveniles; providing civil penalties.

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

SECTION 1. The heading to Chapter 109, Business & Commerce Code, as added by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature, Regular Session, 2013, is amended to read as follows:

CHAPTER 109. BUSINESS ENTITIES ENGAGED IN PUBLICATION OF CERTAIN CRIMINAL RECORD OR JUVENILE RECORD INFORMATION

SECTION 2. Section 109.001, Business & Commerce Code, as added by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature, Regular Session, 2013, is amended by adding Subdivisions (5), (6), (7), and (8) to read as follows:

(5) "Confidential criminal record information of a child" means information about a person's involvement in the criminal justice system resulting from conduct that occurred or was alleged to occur when the person was younger than 17 years of age that is confidential under Chapter 45, Code of Criminal Procedure, or other law. The term does not include:

(A) criminal record information of a person certified to stand trial as an adult for that conduct, as provided by Section 54.02, Family Code; or

(B) information relating to a traffic offense.

(6) "Confidential juvenile record information" means

1 information about a person's involvement in the juvenile justice  
2 system that is confidential, sealed, under restricted access, or  
3 required to be destroyed under Chapter 58, Family Code, or other  
4 law, including:

5 (A) a description or notation of any referral to  
6 a juvenile probation department or court with jurisdiction under  
7 Title 3, Family Code, including any instances of being taken into  
8 custody, any informal disposition of a custodial or referral event,  
9 or any formal charges and the disposition of those charges;

10 (B) a photograph of the person taken pursuant to  
11 a custodial event or other involvement in the juvenile justice  
12 system under Title 3, Family Code; and

13 (C) personal identifying information of the  
14 person contained in any other records of the person's involvement  
15 in the juvenile justice system.

16 (7) "Information service" has the meaning assigned by  
17 47 U.S.C. Section 153.

18 (8) "Interactive computer service" has the meaning  
19 assigned by 47 U.S.C. Section 230(f).

20 SECTION 3. Section 109.002, Business & Commerce Code, as  
21 added by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature,  
22 Regular Session, 2013, is amended to read as follows:

23 Sec. 109.002. APPLICABILITY OF CHAPTER. (a) Subject to  
24 Subsection (a-1) and except as provided by Subsection (b), this  
25 [This] chapter applies to:

26 (1) a business entity that:

27 (A) [~~1~~] publishes criminal record information,

1 including information:

2 (i) [~~(A)~~] originally obtained pursuant to a  
3 request for public information under Chapter 552, Government Code;  
4 or

5 (ii) [~~(B)~~] purchased or otherwise obtained  
6 by the entity or an affiliated business entity from the Department  
7 of Public Safety under Subchapter F, Chapter 411, Government Code;  
8 and

9 (B) [~~(2)~~] requires the payment:

10 (i) [~~(A)~~] of a fee in an amount of \$150 or  
11 more or other consideration of comparable value to remove criminal  
12 record information; or

13 (ii) [~~(B)~~] of a fee or other consideration  
14 to correct or modify criminal record information; or

15 (2) a business entity that publishes confidential  
16 juvenile record information or confidential criminal record  
17 information of a child in a manner not permitted by Chapter 58,  
18 Family Code, Chapter 45, Code of Criminal Procedure, or other law,  
19 regardless of:

20 (A) the source of the information; or

21 (B) whether the business entity charges a fee for  
22 access to or removal or correction of the information.

23 (a-1) To the extent allowed under federal law, a business  
24 entity that is a provider of information services or interactive  
25 computer services is subject to this chapter.

26 (b) This chapter does not apply to:

27 (1) a statewide juvenile information and case

1 management system authorized by Subchapter E, Chapter 58, Family  
2 Code;

3 (2) a publication of general circulation or an  
4 Internet website related to such a publication that contains news  
5 or other information, including a magazine, periodical newsletter,  
6 newspaper, pamphlet, or report; or

7 (3) a radio or television station that holds a license  
8 issued by the Federal Communications Commission.

9 SECTION 4. Chapter 109, Business & Commerce Code, as added  
10 by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature, Regular  
11 Session, 2013, is amended by adding Section 109.0045 to read as  
12 follows:

13 Sec. 109.0045. PUBLICATION OF CONFIDENTIAL JUVENILE RECORD  
14 INFORMATION OR CONFIDENTIAL CRIMINAL RECORD INFORMATION OF A CHILD  
15 PROHIBITED. (a) A business entity may not publish confidential  
16 juvenile record information or confidential criminal record  
17 information of a child.

18 (b) If a business entity receives a written notice by any  
19 person that the business entity is publishing information in  
20 violation of this section, the business entity must immediately  
21 remove the information from the website or publication.

22 (c) If the business entity confirms that the information is  
23 not confidential juvenile record information or confidential  
24 criminal record information of a child and is not otherwise  
25 prohibited from publication, the business entity may republish the  
26 information.

27 (d) This section does not entitle a business entity to

1 access confidential juvenile record information or confidential  
2 criminal record information of a child.

3 (e) A business entity does not violate this chapter if the  
4 business entity published confidential juvenile record information  
5 or confidential criminal record information of a child and:

6 (1) the child who is the subject of the records gives  
7 written consent to the publication on or after the 18th birthday of  
8 the child;

9 (2) the publication of the information is authorized  
10 or required by other law; or

11 (3) the business entity is an interactive computer  
12 service, as defined by 47 U.S.C. Section 230, and published  
13 material provided by another person.

14 SECTION 5. Section 109.005, Business & Commerce Code, as  
15 added by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature,  
16 Regular Session, 2013, is amended by adding Subsection (a-1) and  
17 amending Subsection (b) to read as follows:

18 (a-1) Except as provided by Section 109.0045(e), a business  
19 entity may not publish any information with respect to which the  
20 business entity has knowledge or has received notice that the  
21 information is confidential juvenile record information or  
22 confidential criminal record information of a child.

23 (b) A business entity that publishes information in  
24 violation of this section [~~Subsection (a)~~] is liable to the  
25 individual who is the subject of the information in an amount not to  
26 exceed \$500 for each separate violation and, in the case of a  
27 continuing violation, an amount not to exceed \$500 for each

1 subsequent day on which the violation occurs.

2 SECTION 6. Section 109.006(a), Business & Commerce Code, as  
3 added by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature,  
4 Regular Session, 2013, is amended to read as follows:

5 (a) A business entity that publishes criminal record  
6 information, confidential juvenile record information, or  
7 confidential criminal record information of a child in violation of  
8 this chapter is liable to the state for a civil penalty in an amount  
9 not to exceed \$500 for each separate violation and, in the case of a  
10 continuing violation, an amount not to exceed \$500 for each  
11 subsequent day on which the violation occurs. For purposes of this  
12 subsection, each [~~criminal~~] record published in violation of this  
13 chapter constitutes a separate violation.

14 SECTION 7. Section 109.007, Business & Commerce Code, as  
15 added by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature,  
16 Regular Session, 2013, is amended to read as follows:

17 Sec. 109.007. VENUE. An action under this chapter must be  
18 brought in a district court:

19 (1) in Travis County if the action is brought by the  
20 attorney general;

21 (2) in the county in which the person who is the  
22 subject of the criminal record information, confidential juvenile  
23 record information, or confidential criminal record information of  
24 a child resides; or

25 (3) in the county in which the business entity is  
26 located.

27 SECTION 8. Chapter 109, Business & Commerce Code, as added

1 by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature, Regular  
2 Session, 2013, as amended by this Act, applies to any publication of  
3 criminal record information, confidential juvenile record  
4 information, or confidential criminal record information of a child  
5 that occurs on or after the effective date of this Act, regardless  
6 of whether:

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

9           (2) the information was initially published before  
10 that date.

11           SECTION 9. This Act takes effect September 1, 2015.

ADOPTED

MAY 27 2015

*Atary Spaw*  
Secretary of the Senate

By: *Joe Menendez*

H.B. No. 1491

Substitute the following for H.B. No. 1491:

By: *Joe Menendez*

C.S.H.B. No. 1491

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3 justice records of certain juveniles; providing civil penalties.

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8 CHAPTER 109. BUSINESS ENTITIES ENGAGED IN PUBLICATION OF CERTAIN  
9 CRIMINAL RECORD OR JUVENILE RECORD INFORMATION

10 SECTION 2. Section 109.001, Business & Commerce Code, as  
11 added by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature,  
12 Regular Session, 2013, is amended by adding Subdivisions (5), (6),  
13 (7), (8), and (9) to read as follows:

14 (5) "Confidential criminal record information of a  
15 child" means information about a person's involvement in the  
16 criminal justice system resulting from conduct that occurred or was  
17 alleged to occur when the person was younger than 17 years of age  
18 that is confidential under Chapter 45, Code of Criminal Procedure,  
19 or other law. The term does not include:

20 (A) criminal record information of a person  
21 certified to stand trial as an adult for that conduct, as provided  
22 by Section 54.02, Family Code; or

23 (B) information relating to a traffic offense.

24 (6) "Confidential juvenile record information" means



1 information about a person's involvement in the juvenile justice  
2 system that is confidential, sealed, under restricted access, or  
3 required to be destroyed under Chapter 58, Family Code, or other  
4 law, including:

5 (A) a description or notation of any referral to  
6 a juvenile probation department or court with jurisdiction under  
7 Title 3, Family Code, including any instances of being taken into  
8 custody, any informal disposition of a custodial or referral event,  
9 or any formal charges and the disposition of those charges;

10 (B) a photograph of the person taken pursuant to  
11 a custodial event or other involvement in the juvenile justice  
12 system under Title 3, Family Code; and

13 (C) personal identifying information of the  
14 person contained in any other records of the person's involvement  
15 in the juvenile justice system.

16 (7) "Information service" has the meaning assigned by  
17 47 U.S.C. Section 153.

18 (8) "Interactive computer service" has the meaning  
19 assigned by 47 U.S.C. Section 230(f).

20 (9) "Telecommunications provider" has the meaning  
21 assigned by Section 51.002, Utilities Code.

22 SECTION 3. Section 109.002, Business & Commerce Code, as  
23 added by Chapter 1200 (S.B. 1289), Acts of the 83rd Legislature,  
24 Regular Session, 2013, is amended to read as follows:

25 Sec. 109.002. APPLICABILITY OF CHAPTER. (a) Except as  
26 provided by Subsection (b), this [This] chapter applies to:

27 (1) a business entity that:

1                    (A) [~~1~~] publishes criminal record information,  
2 including information:

3                    (i) [~~A~~] originally obtained pursuant to a  
4 request for public information under Chapter 552, Government Code;  
5 or

6                    (ii) [~~B~~] purchased or otherwise obtained  
7 by the entity or an affiliated business entity from the Department  
8 of Public Safety under Subchapter F, Chapter 411, Government Code;  
9 and

10                   (B) [~~2~~] requires the payment:

11                   (i) [~~A~~] of a fee in an amount of \$150 or  
12 more or other consideration of comparable value to remove criminal  
13 record information; or

14                   (ii) [~~B~~] of a fee or other consideration  
15 to correct or modify criminal record information; or

16                   (2) a business entity that publishes confidential  
17 juvenile record information or confidential criminal record  
18 information of a child in a manner not permitted by Chapter 58,  
19 Family Code, Chapter 45, Code of Criminal Procedure, or other law,  
20 regardless of:

21                   (A) the source of the information; or

22                   (B) whether the business entity charges a fee for  
23 access to or removal or correction of the information.

24                   (b) This chapter does not apply to:

25                   (1) a statewide juvenile information and case  
26 management system authorized by Subchapter E, Chapter 58, Family  
27 Code;

1           (2) a publication of general circulation or an  
2 Internet website related to such a publication that contains news  
3 or other information, including a magazine, periodical newsletter,  
4 newspaper, pamphlet, or report;

5           (3) a radio or television station that holds a license  
6 issued by the Federal Communications Commission;

7           (4) an entity that provides an information service or  
8 that is an interactive computer service; or

9           (5) a telecommunications provider.

10           SECTION 4. Chapter 109, Business & Commerce Code, as added  
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12 Session, 2013, is amended by adding Section 109.0045 to read as  
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21 violation of this section, the business entity must immediately  
22 remove the information from the website or publication.

23           (c) If the business entity confirms that the information is  
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1           (d) This section does not entitle a business entity to  
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4           (e) A business entity does not violate this chapter if the  
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6 or confidential criminal record information of a child and:

7                   (1) the child who is the subject of the records gives  
8 written consent to the publication on or after the 18th birthday of  
9 the child;

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11 or required by other law; or

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24           (b) A business entity that publishes information in  
25 violation of this section [~~Subsection (a)~~] is liable to the  
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6 that occurs on or after the effective date of this Act, regardless  
7 of whether:

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

10                   (2) the information was initially published before  
11 that date.

12           SECTION 9. This Act takes effect September 1, 2015.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 28, 2015**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1491** by McClendon (Relating to the publication of confidential criminal and juvenile justice records of certain juveniles; providing civil penalties.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would prohibit certain business entities from publishing confidential juvenile record information or confidential criminal record information of a child under certain circumstances. A business entity who publishes this prohibited information would be liable to the state for a civil penalty not to exceed \$500 for each separate violation and for each subsequent day on which the violation occurs. The bill would take effect September 1, 2015.

It is assumed that any costs associated with the provisions of the bill could be absorbed within existing resources. The bill could generate an indeterminate amount of revenue to the state from the assessment of civil penalties. The Comptroller of Public Accounts states that the number of violations that would result in civil penalties cannot be estimated.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 644 Juvenile Justice Department

**LBB Staff:** UP, SD, KJo, AI, RCa, ESi, KVe, TBo

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 23, 2015**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1491** by McClendon (Relating to the publication of confidential criminal and juvenile justice records of certain juveniles; providing civil penalties.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would prohibit certain business entities from publishing confidential juvenile record information or confidential criminal record information of a child under certain circumstances. A business entity who publishes this prohibited information would be liable to the state for a civil penalty not to exceed \$500 for each separate violation and for each subsequent day on which the violation occurs. The bill would take effect September 1, 2015.

It is assumed that any costs associated with the provisions of the bill could be absorbed within existing resources. The bill could generate an indeterminate amount of revenue to the state from the assessment of civil penalties. The Comptroller of Public Accounts states that the number of violations that would result in civil penalties cannot be estimated.

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**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 644 Juvenile Justice Department

**LBB Staff:** UP, KJo, AI, RCa, ESi, KVe, TBo



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 20, 2015**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1491** by McClendon (Relating to the publication of confidential criminal and juvenile justice records of certain juveniles; providing civil penalties.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would prohibit certain business entities from publishing confidential juvenile record information or confidential criminal record information of a child under certain circumstances. A business entity who publishes this prohibited information would be liable to the state for a civil penalty not to exceed \$500 for each separate violation and for each subsequent day on which the violation occurs. The bill would take effect September 1, 2015.

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**LBB Staff:** UP, KJo, AI, RCa, ESi, KVe, TBo

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 7, 2015**

**TO:** Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB1491** by McClendon (Relating to the publication of confidential criminal and juvenile justice records of certain juveniles; providing civil penalties.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would prohibit certain business entities from publishing confidential juvenile record information or confidential criminal record information of a child under certain circumstances. A business entity who publishes this prohibited information would be liable to the state for a civil penalty not to exceed \$500 for each separate violation and for each subsequent day on which the violation occurs. The bill would take effect September 1, 2015.

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**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 644 Juvenile Justice Department

**LBB Staff:** UP, ESi, AI, RCa, KVe, TBo

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 21, 2015**

**TO:** Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1491** by McClendon (Relating to the publication of confidential criminal and juvenile justice records of certain juveniles; providing civil penalties.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would prohibit business entities from publishing confidential juvenile record information or confidential criminal record information of a child under certain circumstances. A business entity who publishes this prohibited information would be liable to the state for a civil penalty not to exceed \$500 for each separate violation and for each subsequent day on which the violation occurs. The bill would take effect September 1, 2015.

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