

SB2560



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2560

Introduced 2/6/2018, by Sen. Steve Stadelman

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2000

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that persons engaged in the activity of publishing on a website or in print criminal record information must remove the information free of charge within 30 days after a request by the subject of the information. Sets forth qualifications under which a person who is subject to the criminal record information is eligible for the removal of the information. Provides that failure to comply with a request for removal constitutes an unlawful practice. (Current law prohibits the solicitation of payment to remove criminal record information.)

LRB100 16756 JLS 31896 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2000 as follows:

6 (815 ILCS 505/2000)

7 Sec. 2000. Criminal record information.

8 (a) As used in this Section:

9 "Criminal record" includes any of the following:

10 (1) descriptions or notations of any arrests, any
11 formal criminal charges, and the disposition of those
12 criminal charges, including, but not limited to, any
13 information made available under Section 4a of the State
14 Records Act or Section 3b of the Local Records Act;

15 (2) photographs or video of the person taken pursuant
16 to an arrest or other involvement in the criminal justice
17 system; and

18 (3) personal identifying information, including a
19 person's name, address, date of birth, photograph, and
20 social security number or other government issued
21 identification number.

22 "Subject individual" means an individual who was arrested
23 and had his or her criminal record recorded and:

1 (1) access to his or her case or charges was restricted
2 pursuant to Section 12 of the Criminal Identification Act;

3 (2) prior to indictment, accusation, or other charging
4 instrument, his or her case was never referred for further
5 prosecution to the proper prosecuting attorney by the
6 arresting law enforcement agency and the offense against
7 such individual was closed by the arresting law enforcement
8 agency;

9 (3) prior to indictment, accusation, or other charging
10 instrument, the statute of limitations expired;

11 (4) prior to indictment, accusation, or other charging
12 instrument, his or her case was referred to the prosecution
13 attorney, but was later dismissed;

14 (5) prior to indictment, accusation, or other charging
15 instrument, the grand jury returned 2 no bills;

16 (6) after indictment or accusation, all charges were
17 dismissed or nolle prossed;

18 (7) after indictment or accusation, the individual is
19 approved for the Offender Initiative Program under Section
20 5-6-3.3 of the Unified Code of Corrections; or

21 (8) the individual was acquitted of all of the charges
22 by a judge or jury.

23 (b) A person who is engaged in any activity involving or
24 using a computer or computer network and who publishes on the
25 person's website or by print a subject individual's criminal
26 record information for purposes of commerce shall be deemed to

1 be transacting business in this State. Within 30 days after the
2 sending of a written request by a subject individual, stating
3 his or her name, date of birth, date of arrest, and the name of
4 the arresting law enforcement agency, the person shall, without
5 fee or compensation, remove from that person's website or
6 wherever the print form may be posted the subject individual's
7 criminal record. The written request shall be transmitted via
8 certified mail, return receipt requested, to the registered
9 agent, principal place of business, or primary residence of the
10 person who published the website. Failure to comply with the
11 requirements of this Section, constitutes an unlawful practice
12 within the meaning of this Act.

13 (c) An arresting law enforcement agency shall not provide
14 or make available a copy of an individual's criminal record in
15 any format to a person requesting such information if:

16 (1) the information may be placed in a publication,
17 posted to a website, or transferred to a person to be
18 placed in a publication or posted to a website; and

19 (2) removal or deletion of that information from that
20 publication or website requires the payment of a fee or
21 other consideration.

22 (d) When a person requests an individual's booking
23 information, he or she shall submit a sworn statement affirming
24 that the use of the information, including photographs, is in
25 compliance with subsection (c) of this Section. Any person who
26 knowingly makes a false statement in requesting a booking

1 photograph shall be guilty of perjury under Section 32-2 of the
2 Criminal Code of 2012.

3 ~~(a) It is an unlawful practice for any person engaged in~~
4 ~~publishing or otherwise disseminating criminal record~~
5 ~~information through a print or electronic medium to solicit or~~
6 ~~accept the payment of a fee or other consideration to remove,~~
7 ~~correct, or modify said criminal record information.~~

8 ~~(b) For the purposes of this Section, "criminal record~~
9 ~~information" includes any and all of the following:~~

10 ~~(1) descriptions or notations of any arrests, any~~
11 ~~formal criminal charges, and the disposition of those~~
12 ~~criminal charges, including, but not limited to, any~~
13 ~~information made available under Section 4a of the State~~
14 ~~Records Act or Section 3b of the Local Records Act;~~

15 ~~(2) photographs of the person taken pursuant to an~~
16 ~~arrest or other involvement in the criminal justice system;~~
17 ~~or~~

18 ~~(3) personal identifying information, including a~~
19 ~~person's name, address, date of birth, photograph, and~~
20 ~~social security number or other government issued~~
21 ~~identification number.~~

22 (Source: P.A. 98-555, eff. 1-1-14.)