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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Thomas F. Wade.

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DIGEST

SB 388 Original

2018 Regular Session

Claitor

Proposed law provides relative to business entities that are engaged in the business of publishing certain criminal record or juvenile record information.

Proposed law applies to a business entity that publishes criminal record information, including information originally obtained pursuant to a public records request, or purchased or otherwise obtained by the entity or an affiliated business entity from a law enforcement agency or criminal justice agency, and that requires the payment of a fee or other consideration to remove, correct, or otherwise modify the criminal record information. Proposed law also applies to a business entity that publishes confidential juvenile record information or confidential criminal record information of a child in a manner not permitted by Children's Code Article 412 or other provision of law, regardless of the source of the information or whether the business entity charges a fee or other consideration for access to, or removal or correction of, the information.

Proposed law does not apply to any of the following:

- (1) Any statewide juvenile information sharing system authorized by Children's Code Article 541 et seq. or other provision of law.
- (2) A publication of general circulation or an Internet website related to such a publication that contains news or other information, including a magazine, periodical newsletter, newspaper, pamphlet, or report.
- (3) A radio or television station that holds a license issued by the Federal Communications Commission.
- (4) An entity that provides an information service or that is an interactive computer service.
- (5) A telecommunications provider.

Proposed law imposes a duty on those applicable business entities to publish complete and accurate criminal record information. The information is considered complete if the information reflects the notations of arrest and the filing and disposition of criminal charges, as applicable. The information is considered accurate if the information reflects the most recent information received by the entity from a law enforcement agency or criminal justice agency, including the Department of Public Safety and Corrections, or any other governmental agency or entity within sixty days preceding the date of publication.

Proposed law provides a process to follow in disputing the completeness or accuracy of the information.

Proposed law prohibits publication of confidential juvenile record information or confidential criminal record information of a child. Further provides that if a business entity receives a written notice by any person that the business entity is publishing information in violation of proposed law, the business entity shall immediately remove the information from the website or publication.

Proposed law does not authorize a business entity to access confidential juvenile record information or confidential criminal record information of a child.

Proposed law provides that a business entity does not violate proposed law if the business entity published confidential juvenile record information or confidential criminal record information of a child and:

- (1) The child who is the subject of the records gives written consent to the publication on or after the child reaches the age of eighteen years.
- (2) The publication of the information is authorized or required by any other provision of law.
- (3) The business entity is an interactive computer service, as defined by federal law, and published material provided by another person.

Proposed law provides that a business entity shall not publish any criminal record information in the business entity's possession with respect to which the business entity has knowledge or has received notice that either:

- (1) An order of expungement has been issued pursuant to C.C.P. Art. 971 et seq.
- (2) An order of nondisclosure of criminal history record information has been issued by a court of competent jurisdiction.

Proposed law further provides that except as provided in proposed law, a business entity shall not publish any information with respect to which the business entity has knowledge or has received notice that the information is confidential juvenile record information or confidential criminal record information of a child. Further provides for civil liability for violating proposed law.

Proposed law provides for an action pursuant to proposed law may be brought in any of the following parishes:

- (1) If brought by the attorney general, in the Nineteenth Judicial District Court.
- (2) In the parish in which the person who is the subject of the criminal record information, confidential juvenile record information, or confidential criminal record information of a child resides.

(3) In the parish in which the business entity is located.

Effective August 1, 2018.

(Adds R.S. 10:10-101 through 10-108)