

SENATE BILL NO. 384

BY SENATOR CLAITOR

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AN ACT

To enact R.S. 14:133.7, relative to offenses affecting public records; to prohibit the publication of certain criminal record information or juvenile record information; to provide definitions; to provide penalties; to provide for venue; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:133.7 is hereby enacted to read as follows:

§133.7. Publication of certain criminal record information or juvenile record information prohibited

A.(1) No person or business entity shall:

(a) Publish confidential juvenile record information or confidential criminal record information of a child.

(b) Publish any criminal history record or criminal history record information in the person's or business entity's possession with respect to which the person or business entity has received notice that either:

(i) An order of expungement has been entered pursuant to Code of Criminal Procedure Article 971 et seq.

(ii) An order of nondisclosure has been issued by a court of competent jurisdiction.

(c) Charge a fee to remove, correct, or modify any criminal history record or criminal history record information that the person or business entity has published.

(d) Continue to publish an incomplete or inaccurate criminal history record or inaccurate criminal history record information.

1 (2) A person or business entity does not violate this Section if the person
2 or business entity published confidential juvenile record information or
3 confidential criminal record information of a child and:

4 (a) The child who is the subject of the records gives written consent to
5 the publication on or after the child reaches the age of eighteen years.

6 (b) The publication of the information is authorized or required by any
7 other provision of law.

8 B.(1) A person or business entity shall ensure that a criminal history
9 record or criminal history record information that the person or business entity
10 publishes is complete and accurate.

11 (2) For purposes of this Section, a criminal history record or criminal
12 history record information published by a person or business entity is
13 considered:

14 (a) "Complete" if the information reflects the notations of arrest and the
15 filing and disposition of criminal charges, as applicable.

16 (b) "Accurate" if the information reflects the most recent information
17 received by the entity from a law enforcement agency, criminal justice agency,
18 or any other governmental entity within sixty days preceding the date of
19 publication.

20 (3) The person or business entity shall clearly and conspicuously publish
21 an email address, facsimile transmission number, or mailing address in order
22 to enable a person who is the subject of a criminal history record or criminal
23 history record information published by the person or business entity to dispute
24 the completeness or accuracy of the published information.

25 (4) If a person or business entity receives a dispute regarding the
26 completeness or accuracy of a criminal history record or criminal history
27 record information from a person who is the subject of the published
28 information, the person or business entity shall, within thirty business days of
29 receiving the notice of the dispute, verify with the appropriate law enforcement
30 agency, criminal justice agency, or any other governmental entity, without cost

1 to the person, the disputed information.

2 (5) If the person or business entity finds an incomplete or inaccurate
3 criminal history record or inaccurate criminal history record information after
4 conducting an investigation as prescribed by this Section, the person or business
5 entity shall promptly remove the inaccurate information from the website or
6 other publication or shall promptly correct the information, as applicable.

7 (6) The person or business entity shall provide written notice to the
8 person who disputed the completeness or accuracy of published information of
9 the results of an investigation conducted under this Section not later than the
10 fifth business day after the date on which the investigation is completed.

11 C.(1) If a person or business entity receives a written notice from any
12 person that the person or business entity is publishing information in violation
13 of this Section, the person or business entity shall immediately remove the
14 information from the website or publication.

15 (2) If the person or business entity confirms that the information is not
16 confidential juvenile record information or confidential criminal record
17 information of a child and the publication of the information is not otherwise
18 prohibited, the person or business entity may republish the information.

19 D.(1) Except as provided in Paragraph (2) of this Subsection, this Section
20 shall apply to:

21 (a) A person or business entity that publishes a criminal history record
22 or criminal history record information, including information originally
23 obtained pursuant to a public records request or purchased or otherwise
24 obtained from a law enforcement agency, criminal justice agency, or any other
25 governmental entity.

26 (b) A person or business entity that publishes confidential juvenile
27 record information or confidential criminal record information of a child in any
28 manner not permitted by Children's Code Article 412 or other provision of law,
29 regardless of the source of the information.

30 (2) This Chapter shall not apply to:

1 (a) Any statewide juvenile information sharing system authorized by
2 Children's Code Article 541 or other provision of law.

3 (b) A publication of general circulation or an internet website related to
4 such a publication that contains news or other information, including a
5 magazine, periodical newsletter, newspaper, pamphlet, or report.

6 (c) A radio or television station that holds a license issued by the Federal
7 Communications Commission.

8 (d) A telecommunications provider.

9 (e) A movie, film, or audiovisual work.

10 E. For purposes of this Section:

11 (1) "Confidential criminal record information of a child" means
12 information relative to a person's involvement in the criminal justice system
13 resulting from conduct that occurred or was alleged to occur when the person
14 was younger than eighteen years of age and that is confidential pursuant to
15 Children's Code Article 412 or any other provision of law. This term does not
16 include:

17 (a) A criminal history record or criminal history record information of
18 a person who is to stand trial as an adult for that conduct, as provided by
19 Children's Code Article 305 or any other provision of law.

20 (b) Records or information relating to a traffic offense.

21 (2) "Confidential juvenile record information" means information about
22 a person's involvement in the juvenile justice system that is confidential, sealed,
23 under restricted access, or required to be destroyed under any provision of law,
24 including:

25 (a) A description or notation of any referral to a juvenile probation
26 department or court with jurisdiction over the juvenile, including any instances
27 of being taken into custody, any informal disposition of a custodial or referral
28 event, or any formal charges and the disposition of those charges.

29 (b) A photograph or photographs of the person taken pursuant to a
30 custodial event or other involvement in the juvenile justice system.

1 (c) Personal identifying information of the person contained in any other
2 records of the person's involvement in the juvenile justice system.

3 (3) "Criminal justice agency" means any government agency or subunit
4 thereof, or private agency that, through statutory authorization or a legal
5 formal agreement with a governmental unit or agency, has the power of
6 investigation, arrest, detention, prosecution, adjudication, treatment,
7 supervision, rehabilitation or release of persons suspected, charged, or
8 convicted of a crime, or that collects, stores, processes, transmits, or
9 disseminates criminal history record or crime information.

10 (4) "Criminal history record" or "criminal history record information"
11 mean information collected by criminal justice agencies on individuals
12 consisting of identifiable descriptions and notations of arrests, detentions,
13 indictments, bills of information, or any formal criminal charges, and any
14 disposition arising therefrom, including sentencing, correctional supervision,
15 and release. These terms do not include intelligence or investigatory purposes,
16 nor does it include any identification information that does not indicate
17 involvement of the individual in the criminal justice system. These terms do not
18 include records of juvenile criminal conduct. These terms include but are not
19 limited to the following:

20 (a) A description or notation of any arrests, any formal criminal charges,
21 and the dispositions of those criminal charges.

22 (b) A photograph or photographs of the person taken pursuant to an
23 arrest or other involvement in the criminal justice system.

24 (c) Personal identifying information of a person displayed in conjunction
25 with any other record of the person's involvement in the criminal justice system.

26 (5) "Juvenile justice system" means the system of public and private
27 services in Louisiana that includes prevention, early identification, early
28 intervention, child protection, law enforcement, prosecution, defense,
29 adjudication, diversion and informal processing, probation, corrections,
30 aftercare, transitional living, and other services provided to children and

1 families who either are or are likely to be brought into a court with juvenile
2 jurisdiction because of problems such as abuse, neglect or abandonment, mental
3 illness, substance abuse, aspects of a divorce and breakup of families,
4 predelinquency, social irresponsibility or delinquent behavior, or domestic
5 abuse involving children.

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

10 (7) "Publish" means:

11 (a) In the case of the records of adults, to communicate or make
12 information available to another person on a publicly available internet website
13 or in any other publication that charges a fee for the removal of the
14 information.

15 (b) In the case of the records of a juvenile, to communicate or make
16 information available to another person by any means, including but not limited
17 to a publicly available internet website that charges a fee for the removal of the
18 information.

19 F. Whoever violates any provision of this Section:

20 (1) On a first conviction shall be fined not more than one thousand
21 dollars, or imprisoned for not more than six months, or both.

22 (2) On a second conviction shall be fined not more than five thousand
23 dollars, or imprisoned for not more than one year, or both.

24 (3) On a third or subsequent conviction shall be fined not more than ten
25 thousand dollars, or imprisoned, with or without hard labor, for not less than
26 six months nor more than one year, or both.

27 G. In addition to the penalties provided by Subsection F of this Section,
28 a person or business entity that publishes information in violation of any
29 provision of this Section shall be liable to pay restitution to the individual who
30 is the subject of the information in an amount not to exceed five hundred dollars

1 for each separate violation and, in the case of a continuing violation, an amount
2 not to exceed five hundred dollars for each subsequent day on which the
3 violation occurs.

4 H. Venue shall be appropriate in the jurisdiction where the subject of
5 publication resides and where the offense was committed.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____