

16105390D

SENATE BILL NO. 534

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 8, 2016)

(Patron Prior to Substitute—Senator Surovell)

A BILL to amend and reenact § 8.01-40.3 of the Code of Virginia, relating to dissemination of criminal history record information; civil actions.

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-40.3 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-40.3. Unauthorized dissemination, etc., of criminal history record information; civil action.

A. Any person or entity who is regularly engaged in the business of disseminating or publishing, for a fee, criminal history record information and who knowingly disseminates or publishes such information relating to information that has been expunged or who disseminates or publishes such information 60 days or more after having received notice of the issuance of a court order to expunge such information shall be liable to the subject of the criminal history record information for actual damages. No person shall be liable under this subsection if the dissemination or publication of such information was not prohibited at the time of the dissemination or publication or if the dissemination is otherwise required by law.

B. Any person who disseminates, publishes, or maintains or causes to be disseminated, published, or maintained the criminal history record information as defined in § 9.1-101 of an individual pertaining to that individual's charge or arrest for a criminal offense and solicits, requests, or accepts money or other thing of value for removing such criminal history record information shall be liable to the individual who is the subject of the information for actual damages or \$500, whichever is greater, in addition to reasonable attorney fees and costs.

B. C. Nothing in this section shall be construed to impose liability on:

1. An interactive computer service, as defined in 47 U.S.C. § 230(f), for content provided by another person, nor shall it be deemed to prohibit an individual from bringing an action on the individual's own behalf under the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.).

2. Any speech protected by Article I, Section 12 of the Constitution of Virginia.

C. D. As used in this section, "criminal history record information" means the same as that term is defined in § 9.1-101.