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**HOUSE BILL NO. 1764****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice  
on February 4, 2015)

(Patron Prior to Substitute—Delegate Loupassi)

A *BILL to amend the Code of Virginia by adding a section numbered 8.01-40.3, relating to the dissemination, etc., of criminal history record information; civil actions.*

**Be it enacted by the General Assembly of Virginia:**

1. That the Code of Virginia is amended by adding a section numbered 8.01-40.3 as follows:

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

A. Any person who disseminates or publishes or causes to be disseminated or published the criminal history record information of an individual pertaining to that individual's charge or arrest for a criminal offense more than 120 days after confirmation by the State Police to the individual charged or arrested that such information has been expunged pursuant to Title 16.1 or Title 19.2 when such person knows or should have known that the information has been expunged shall be liable to the individual who is the subject of the information for actual damages or \$500, whichever is greater, and the court may award reasonable attorney fees and costs. However, a person shall not 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 dissemination or publication is otherwise required by law. The custodian of an expungement order shall make it available upon request to consumer reporting agencies as defined by 15 U.S.C. § 1681a(f).

B. Any person who disseminates, publishes, or maintains or causes to be disseminated, published, or maintained the criminal history record information 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.

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.

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

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