

**As Introduced**

**131st General Assembly  
Regular Session  
2015-2016**

**H. B. No. 172**

**Representative Barnes**

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**A BILL**

To enact sections 1349.71, 1349.72, 1349.73, 1  
1349.74, and 1349.75 of the Revised Code to 2  
enact the Fair and Accurate Reporting of 3  
Criminal Records Law, to require certain 4  
business entities that publish criminal record 5  
information to ensure that the information is 6  
complete and accurate, to provide a procedure by 7  
which a subject of published criminal record 8  
information may have incomplete or inaccurate 9  
information corrected or removed from the 10  
publication, and to provide remedies for the 11  
failure of a business entity to remove or 12  
correct incomplete or inaccurate information. 13

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1349.71, 1349.72, 1349.73, 14  
1349.74, and 1349.75 of the Revised Code be enacted to read as 15  
follows: 16

**Sec. 1349.71.** (A) As used in sections 1349.71 to 1349.75 17  
of the Revised Code: 18

(1) "Business entity" means a person that publishes 19

criminal record information and requires the payment of a fee in 20  
an amount of one hundred fifty dollars or more or other 21  
consideration of comparable value to remove criminal record 22  
information or a fee or other consideration to correct or modify 23  
criminal record information. 24

(2) "Criminal record information" means information about 25  
a person's involvement in the criminal justice system, including 26  
any of the following: 27

(a) A description or notation of any arrests, any formal 28  
criminal charges, and the dispositions of those criminal 29  
charges; 30

(b) A photograph of the person taken pursuant to an arrest 31  
or other involvement in the criminal justice system; 32

(c) Personal identifying information of a person displayed 33  
in conjunction with any other record of the person's involvement 34  
in the criminal justice system. 35

(3) "Personal identifying information" means a person's 36  
name, address, date of birth, photograph, social security 37  
number, or other government-issued identification number, or 38  
other information that alone or in conjunction with additional 39  
information identifies a person. 40

(4) "Publish" means to communicate or make information 41  
available to another person in writing or by means of 42  
telecommunications and includes communicating information on a 43  
computer bulletin board or similar system. 44

(B) Sections 1349.71 to 1349.75 of the Revised Code shall 45  
be known as the "Fair and Accurate Publishing of Criminal 46  
Records Law." 47

Sec. 1349.72. (A) A business entity shall ensure that 48  
criminal record information the entity publishes is complete, 49  
accurate, and current. Criminal record information is complete 50  
if the information reflects the notations of arrest and the 51  
filing and disposition of criminal charges, as applicable. If 52  
the entity received the criminal record information from the 53  
bureau of criminal identification and investigation or another 54  
governmental agency, the information is current if it reflects 55  
the most recent information received by the entity or was 56  
received by the entity from the bureau of criminal 57  
identification and investigation within the sixty-day period 58  
preceding the date of publication and if the date the 59  
information was received by the entity is indicated in the 60  
publication. 61

(B) A business entity shall clearly and conspicuously 62  
publish an email address, fax number, or mailing address to 63  
enable a person who is the subject of criminal record 64  
information published by the entity to dispute the completeness 65  
or accuracy of the information. 66

(C) If a business entity receives notice of a dispute 67  
regarding the completeness or accuracy of criminal record 68  
information from a person who is the subject of the information, 69  
the business entity, within forty-five business days after 70  
receiving the notice, shall conduct an investigation, including 71  
verification of the disputed information with the appropriate 72  
governmental agency, without charge to the subject of the 73  
information. 74

(D) If a business entity finds incomplete, inaccurate, or 75  
outdated criminal record information after conducting an 76  
investigation under this section, the entity shall promptly 77

remove the inaccurate information from the web site or other 78  
publication or shall promptly correct or update the information, 79  
as applicable. The entity shall not charge a fee to remove, 80  
correct, or modify incomplete, inaccurate, or outdated 81  
information or continue to publish incomplete, inaccurate, or 82  
outdated information. 83

(E) A business entity shall provide written notice to the 84  
person who disputed the completeness, accuracy, or currency of 85  
information of the results of an investigation conducted under 86  
this section not later than the fifth business day after the 87  
date on which the investigation is completed. 88

**Sec. 1349.73.** (A) No business entity shall publish any 89  
criminal record information in the business entity's possession 90  
with respect to which the business entity has knowledge or has 91  
received notice that a court has issued an order sealing or 92  
expunging the record. 93

(B) An individual who is the subject of criminal record 94  
information published by a business entity in violation of this 95  
section has a cause of action against the business entity and 96  
may recover not more than five hundred dollars for each separate 97  
violation. In the case of a continuing violation, the individual 98  
may recover not more than five hundred dollars for each day on 99  
which the violation occurs. The court may also grant injunctive 100  
relief to prevent or restrain a violation of this section. An 101  
individual who prevails in an action brought under this section 102  
shall recover court costs and reasonable attorney's fees. 103

(C) The actions and remedies provided by this section are 104  
not exclusive and are in addition to any other actions or 105  
remedies provided by law. 106

Sec. 1349.74. (A) A business entity that publishes 107  
criminal record information in violation of section 1349.72 or 108  
1349.73 of the Revised Code is liable to the state for a civil 109  
penalty in an amount not to exceed five hundred dollars for each 110  
separate violation and, in the case of a continuing violation, 111  
an amount not to exceed five hundred dollars for each day on 112  
which the violation occurs. Each criminal record published in 113  
violation of this section constitutes a separate violation. 114

(B) The attorney general or an appropriate prosecuting 115  
attorney may sue to collect a civil penalty under this section. 116

(C) A civil penalty collected under this section shall be 117  
deposited in the state treasury to the credit of the general 118  
revenue fund. 119

(D) The attorney general may bring an action in the name 120  
of the state to restrain or enjoin a violation or threatened 121  
violation of this section. 122

(E) The attorney general or an appropriate prosecuting 123  
attorney is entitled to recover reasonable expenses incurred in 124  
obtaining injunctive relief or a civil penalty, or both, under 125  
this section, including court costs and reasonable attorney's 126  
fees. 127

(F) An action under this section shall be brought in the 128  
court of common pleas of the county in which the person who is 129  
the subject of the criminal record information resides or the 130  
county in which the business entity is located or, if the action 131  
is brought by the attorney general, of Franklin county. 132

(G) The actions and remedies provided by this section are 133  
not exclusive and are in addition to any other actions or 134  
remedies provided by law. 135

Sec. 1349.75. Every business entity shall have and 136  
maintain an agent in this state upon whom any process or notice 137  
permitted under section 1349.72, 1349.73, or 1349.74 of the 138  
Revised Code may be served. The secretary of state shall adopt 139  
rules for the implementation of this section with regard to 140  
business entities that are not required to have an agent under 141  
another provision of law. 142