



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. H.B. 172

131st General Assembly  
(As Passed by the House)

**Reps.** Barnes, Amstutz, Anielski, Antonio, Boccieri, Brown, Buchy, Dever, Fedor, Green, Hall, Hambley, Lepore-Hagan, Manning, Ramos, Reineke, Rezabek, Roegner, Rogers, Sheehy, Sprague, Sweeney, Terhar, Young

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## BILL SUMMARY

- Prohibits a person engaged in publishing or disseminating criminal record information from soliciting or accepting payment in exchange for removing, correcting, modifying, or refraining from publishing or disseminating the criminal record information.
- Makes a violation of the prohibition a first degree misdemeanor.
- Allows a victim who sues for a violation of the prohibition to be awarded specified damages, attorney's fees, costs, and other remedies.

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## CONTENT AND OPERATION

### Creation of criminal offense

The bill creates the offense of "misuse of criminal record information." The bill prohibits a person engaged in publishing or otherwise disseminating criminal record information in print or electronic form from negligently soliciting or accepting from a subject individual the payment of a fee or other consideration to remove, correct, modify, or refrain from publishing or disseminating criminal record information.<sup>1</sup> A "subject individual" is an individual who was arrested and had the individual's photograph taken by a "law enforcement agency" (a defined term) during the processing of the arrest. "Criminal record information" means any of the following:

- A photograph of the subject individual taken in Ohio by an arresting law enforcement agency (i.e., a booking photograph);

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<sup>1</sup> R.C. 2927.21(B) and (C).

- The subject individual's name;
- The subject individual's address;
- The charges filed against the subject individual;
- A description of the subject individual who is asserted or implied to have engaged in illegal conduct.<sup>2</sup>

### **Criminal penalty for violation**

The bill makes misuse of criminal record information a first degree misdemeanor. Each payment solicited or accepted in violation of the prohibition is a separate violation.<sup>3</sup>

### **Civil action for damages**

Existing law retained by the bill allows an individual injured by a criminal act to sue for damages.<sup>4</sup> Under the bill, in such a lawsuit for a violation of the bill's criminal prohibition described above, the individual may be awarded the greater of \$10,000 or actual and punitive damages. The individual also may be awarded reasonable attorney's fees, court costs, and any other remedies provided by law. Under the bill, humiliation or embarrassment is adequate to show that the individual has incurred damages. The individual does not need to prove a physical manifestation of humiliation or embarrassment to show damages.<sup>5</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	04-28-15
Reported, H. Commerce & Labor	04-20-16
Passed by House (96-0)	05-18-16

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<sup>2</sup> R.C. 2927.21(A), by reference to R.C. 109.573, not in the bill.

<sup>3</sup> R.C. 2927.21(C) and (D).

<sup>4</sup> R.C. 2307.60, not in the bill.

<sup>5</sup> R.C. 2927.21(E), by reference to R.C. 2307.60, not in the bill.

