

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H4/4/13
A Bill

HOUSE BILL 1763

By: Representative Nickels

For An Act To Be Entitled

AN ACT TO ESTABLISH A CAUSE OF ACTION AGAINST THIRD PARTIES WHO CONDUCT BACKGROUND CHECKS AND RELEASE ERRONEOUS INFORMATION; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A CAUSE OF ACTION AGAINST THIRD PARTIES WHO CONDUCT BACKGROUND CHECKS AND RELEASE ERRONEOUS INFORMATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 16, Subtitle 7, Chapter 118, is amended to add a new section to read as follows:

16-118-109. Distribution of erroneous background information by certain entities – Civil liability.

(a)(1) A private entity or person engaged in conducting criminal background checks that conducts a criminal background check on a person is subject to civil liability to the person or other aggrieved party if the person subject to the background check or aggrieved party shows by a preponderance of the evidence that:

(A) The private business entity or person engaged in conducting criminal background checks disclosed information concerning the person and the information disclosed was erroneous; and

(B) The disclosure of the erroneous information:
(i) Was a proximate cause of an injury to the person's:

(a) Reputation;



(b) Current employment status; or
(c) Potential employment status; or
(ii) Led to the deprivation of the person's civil liberties.

(2) A person who prevails in a cause of action under this section is entitled to:

- (i) Compensatory damages;
- (ii) Punitive damages;
- (iii) Court costs; and
- (iv) Reasonable attorney's fees.

(3) The cause of action under this section may be maintained by the person who was injured or damaged or, after the person's death, the executor, administrator, or representative of his or her estate.

(b) It is an affirmative defense to a cause of action under this section if the private business entity or person conducting the criminal background check demonstrated heightened due diligence in procuring the most accurate information available at the time the criminal background check was conducted.

(c) The remedy provided in this section is in addition to any other remedies in law or equity.

/s/Nickels