

1.1 A bill for an act

1.2 relating to commerce; regulating business screening services; providing for the
1.3 correction and deletion of certain criminal records; amending Minnesota Statutes
1.4 2008, section 332.70, subdivisions 1, 2, 3, 4.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2008, section 332.70, subdivision 1, is amended to read:

1.7 Subdivision 1. **Definitions.** For purposes of this section:

1.8 (a) "Business screening service" means a person regularly engaged in the business of
1.9 collecting, assembling, evaluating, or disseminating criminal ~~record information~~ records
1.10 on individuals for a fee. Business screening service does not include a government entity,
1.11 as defined in section 13.02, or the news media.

1.12 (b) "Conviction" has the meaning given in section 609.02, subdivision 5.

1.13 (c) "Criminal record" means a public record originating from a Minnesota agency
1.14 or court of an arrest, citation, prosecution, criminal proceeding, or conviction. For the
1.15 purposes of this definition, "criminal proceeding" does not include judicial opinions.

1.16 Sec. 2. Minnesota Statutes 2008, section 332.70, subdivision 2, is amended to read:

1.17 Subd. 2. **Criminal records.** ~~A business screening service must not disseminate a~~
1.18 ~~criminal record unless the record has been updated within the previous month. A business~~
1.19 screening service shall make all updates to Minnesota criminal records as most recently
1.20 provided by the agencies or courts in a timely manner, and make a good faith effort to
1.21 ensure the records are accurate, current, and complete as provided by those agencies and
1.22 courts. Business screening services are not liable for inaccurate data which is the result of
1.23 a good faith attempt to comply with this section.

S.F. No. 2322, as introduced - 86th Legislative Session (2009-2010) [10-4742]

2.1 Sec. 3. Minnesota Statutes 2008, section 332.70, subdivision 3, is amended to read:

2.2 Subd. 3. **Correction and deletion of records.** (a) If the completeness or accuracy
2.3 of a criminal record maintained by a business screening service is disputed by the
2.4 individual who is the subject of the record, the screening service shall, without charge,
2.5 investigate the disputed record. In conducting an investigation, the business screening
2.6 service shall review and consider all relevant information submitted by the subject of the
2.7 record with respect to the disputed record to determine whether the record maintained by
2.8 the screening service accurately reflects the content of the official record, as maintained by
2.9 the official government custodian.

2.10 ~~(b) If the disputed record is found to be inaccurate or incomplete, the business~~
2.11 ~~screening service shall promptly correct the record. If the disputed record is found to be~~
2.12 ~~sealed, expunged, or the subject of a pardon, the business screening service shall promptly~~
2.13 ~~delete the record. If, upon investigation, the screening service determines that the record~~
2.14 does not accurately reflect the content of the official record, the screening service shall
2.15 correct the disputed record so as to accurately reflect the content of the official record.
2.16 If the disputed record is found to be sealed, expunged, or the subject of a pardon, the
2.17 business screening service shall promptly delete the record.

2.18 (c) A business screening service may terminate an investigation of a disputed record
2.19 if the business screening agency reasonably determines that the dispute is frivolous, which
2.20 may be based on the failure of the subject of the record to provide sufficient information to
2.21 investigate the disputed record. Upon making a determination that the dispute is frivolous,
2.22 the business screening service shall inform the subject of the record of the specific reasons
2.23 why it has determined that the dispute is frivolous and provide a description of any
2.24 information required to investigate the disputed record.

2.25 (d) The business screening service shall notify the subject of the disputed record
2.26 of the correction or deletion of the record or of the termination or completion of the
2.27 investigation related to the record within 30 days of the date when the agency receives
2.28 notice of the dispute from the subject of the record.

2.29 Sec. 4. Minnesota Statutes 2008, section 332.70, subdivision 4, is amended to read:

2.30 Subd. 4. **Date and notice required.** A business screening service that disseminates
2.31 a criminal record must include the date when the record was collected by the business
2.32 screening service and a notice that the information may include criminal records that have
2.33 been expunged, sealed, or otherwise have become inaccessible to the public since that date.

3.1 **EFFECTIVE DATE; APPLICABILITY.** This section only applies to criminal
3.2 records collected by a business screening service on or after the effective date of this
3.3 section.