A bill for an act

relating to data practices; regulating business screening services; providing civil penalties and remedies; proposing coding for new law in Minnesota Statutes, chapter 332.

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

Section 1. **[332.70] BUSINESS SCREENING SERVICES; DATA PRACTICES.**

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

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

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

(c) "Criminal record" means a record of an arrest, citation, prosecution, criminal proceeding, or conviction.

(d) "Government entity" has the meaning given in section 13.02.

Subd. 2. **Notice to subject.** At least ten days before completing a criminal record report, a business screening service shall notify the individual who is the subject of the request that a search of criminal records regarding the individual has been requested. The notice must include:

(1) the name and contact information of the person requesting the criminal record report;

(2) a statement that the subject has the right to inspect any public data or information obtained from a commercially available database used to prepare the report, to request that the business screening service correct erroneous information, and that the subject may

provide information to the business screening service relevant to the reinvestigation of the accuracy or completeness of the record; and

(3) other rights available to the subject under this section.

The business screening service shall provide a complete copy of the criminal record report to the subject at the same time the information is provided to the requester.

Subd. 3. **Verification of records; contents of report.** (a) A business screening service must not disseminate a criminal record unless the record has been updated within the previous 30 days.

(b) A business screening service must not disclose a criminal record if the use or disclosure of the record by a government entity would be prohibited because the time period for use or disclosure of the record by the government entity has expired. A report using public criminal record information must identify the source from which the information was obtained, including the specific court or government entity.

(c) A criminal record report must include a glossary of criminal court terms used in the report, such as continued for dismissal, dismissal, stay of imposition, stay of adjudication, misdemeanor, petty misdemeanor, adjudication of delinquency, conviction, acquittal, and probable cause not found.

Subd. 4. **Correction or deletion of records.** (a) If the completeness or accuracy of a criminal record maintained by a business screening service is disputed by the individual who is the subject of the record, the screening service shall, without charge, investigate the disputed record. In conducting an investigation, the business screening service shall review and consider all relevant information submitted by the subject of the record with respect to the disputed record.

(b) If the disputed record is found to be inaccurate or incomplete, or sealed, expunged, or the subject of a pardon, the business screening service shall promptly delete the record.

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

Subd. 5. **Date and notice required.** A business screening service that disseminates a criminal record must include the date when the record was collected and a notice that the information may include records that have been expunged, sealed, or otherwise have become inaccessible to the public since that date.

Subd. 6. **Remedies; relationship to the Fair Credit Reporting Act.** (a) A business screening service that violates this section is liable to the individual who is the subject of

the record for a penalty of $1,000 or actual damages caused by the violation, whichever is greater, plus costs and disbursements and reasonable attorney fees. In addition, the public and private remedies in section 8.31 apply to violations of this section.

(b) A business screening service in compliance with the applicable provisions of the Fair Credit Reporting Act, United State Code, title 15, section 1681, et seq., is considered to be in compliance with this section. Those entities are subject to the state remedies under this subdivision when their actions would violate this section and federal law.

Subd. 7. **Service of process; jurisdiction.** A business screening service that disseminates criminal record information in this state or that obtains a criminal record from a government entity, as defined in section 13.02, or a court in this state is deemed to have consented to service of process in this state for purposes of section 5.25, subdivision 4, or other applicable law and to the jurisdiction of courts in this state for actions involving a violation of this section.