

§ 15A-152. Civil liability for dissemination of certain criminal history information.

(a) **Duty to Delete Record.** – A private entity that holds itself out as being in the business of compiling and disseminating criminal history record information for compensation shall destroy and shall not disseminate any information in the possession of the entity with respect to which the entity has received a notice to delete the record in question. The private entity shall delete the record within the specified time and pursuant to the terms of the licensing agreement with the State agency. If the license does not specify a time for deletion, or if no license agreement exists between the private entity and state agency, the private entity shall delete the record within 10 business days of receiving notice to delete the record in question.

(b) **Dissemination of Information.** – Unless the entity is regulated by the federal Fair Credit Reporting, Act 15 U.S.C. § 1681, et seq. or the Gramm-Leach-Bliley Act 15 U.S.C. §§ 6801-6809, a private entity described by subsection (a) of this section that is licensed to access a State agency's criminal history record database may disseminate that information only if, within the 90-day period preceding the date of dissemination, the entity originally obtained the information or received the information as an updated record information to its database. The private entity must notify the State agency from which it receives the information of any other entity to which it subsequently provides a bulk extract of the information.

(c) **Civil Liability.** – A private entity subject to the provisions of this section that disseminates information in violation of this section is liable for any damages that are sustained as a result of the violation by the person who is the subject of that information. A person who prevails in an action brought under this section is also entitled to recover court costs and reasonable attorneys' fees. This subsection does not apply to an entity regulated by and subject to the civil liability remedies of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq., or the Gramm Leach-Bliley Act, 15 U.S.C. 6801-6809, et seq.

(d) **Certificate of Verification.** – Prior to filing an action under this section, a person who is the subject of a record that has been expunged may apply to the Administrative Office of the Courts for a certificate verifying that the person is the subject of a record that has been expunged and that notice of the expunction was made in accordance with G.S. 15A-150. The application must include a sworn affidavit attesting, under penalty of perjury, that the applicant is the person who was the subject of the record in question and identifying the specific case expunged. A notary or official taking an acknowledgment, oath, or affirmation of an applicant's affidavit under this subsection may not disclose the nature or content of the application, except as required in a court action related to the application. Unless made part of the record of a subsequent court proceeding, a certificate of verification and an application for the certificate are not public records under G.S. 132-1. The Administrative Office of the Courts may establish procedures pertaining to the application for and issuance of certificates of verification.

(e) **Notice of Record Removal.** – Prior to filing an action under this section, a person who is the subject of a record that has been expunged may request a notice of record removal of the expunction and subsequent notification to private entities as required by G.S. 15A-150(d) from an agency required under G.S. 15A-150 to expunge that person's record who maintains a licensing agreement to provide record information to a private entity. The application must include a sworn affidavit attesting, under penalty of perjury, that the applicant is the person who was the subject of the record in question and identifying the specific case expunged. A notary or official taking an acknowledgment, oath, or affirmation of an applicant's affidavit under this subsection may not disclose the nature or content of the application, except as required in a court action related to the application. Unless made part of the record of a subsequent court proceeding, a notice of record removal and an application for the notice are not public records under G.S. 132-1. State and local agencies may establish procedures

pertaining to the application for and issuance of notices of record removal. (2009-510, s. 1; 2010-174, s. 9.)