A BILL

TO AMEND SECTION 17-1-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESTRUCTION OF ARREST AND BOOKING RECORDS, SO AS TO PROVIDE THAT A PERSON OR ENTITY WHO PUBLISHES ON THE PERSON OR ENTITY'S WEBSITE THE ARREST AND BOOKING RECORDS OF A PERSON WHOSE CHARGES HAVE BEEN DISCHARGED OR DISMISSED, OR WHO IS FOUND NOT GUILTY OF A CHARGE, WITHOUT FEE OR COMPENSATION, SHALL REMOVE THE ARREST AND BOOKING RECORDS WITHIN THIRTY DAYS OF A WRITTEN REQUEST, AND TO PROVIDE A PENALTY FOR A VIOLATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 17-1-40 of the 1976 Code, as last amended by Act 132 of 2016, is further amended by adding an appropriately lettered subsection at the end to read:

"(1) A person or entity who publishes on the person or entity's website the arrest and booking records, including mug shots, of a person who is arrested and booked in this State is deemed to be transacting business in this State.

(2) Except as provided in item (3), within thirty days of the sending of a written request by a person described in subsection (A), including the person's name, date of birth, date of arrest, and the name of the arresting law enforcement agency, a person or entity, without fee or compensation, shall remove from the person or entity's website any arrest and booking records, including mug shots, of the person described in subsection (A).

(3) If the original charge against the person described in subsection (A) is discharged or dismissed as a result of the person pleading to a lesser offense, the person or entity who publishes the website is not required to remove the records; however, the person or entity shall change the published information to reflect the lesser offense instead of the original charge.

(4) The written request must be sent via certified mail, return receipt requested, to the registered agent, principal place of business, or primary residence of the person or entity who publishes the website.

(5) A person or entity who publishes a website and violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(6) A person described in subsection (A) may file a civil cause of action against a person or entity who publishes a website and violates the provisions of this subsection."

SECTION 2. This act takes effect upon approval by the Governor.