

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/SB 1046 — Arrest Booking Photographs

by Commerce and Tourism Committee and Senators Bean, Baxley, and Bradley

Section 901.43, F.S., prohibits any person or entity engaged in the business of publishing or otherwise disseminating arrest booking photographs from soliciting or accepting a fee to remove the photographs. Additionally, this section provides that persons or entities who accept a fee for the removal of such photographs must remove the photographs within ten days of a written request or be subject to a civil penalty.

The bill amends s. 901.43, F.S., expanding this section to subject any person or entity that publishes or disseminates information relating to arrest booking photographs, when the person or entity's primary business model is the publishing and disseminating of arrest booking photographs for a commercial purpose or pecuniary gain, to a civil penalty for failing to remove the arrest booking photograph upon written request. The bill specifies that a person or entity must remove an arrest booking photograph within 10 *calendar* days *after* receipt of a written request.

Additionally, the bill provides that an arrest booking photograph may not be republished or redisseminated by a person or entity that was required to remove such photograph. The bill creates a cause of action if such photograph is republished or redisseminated by a person or entity who was required to remove the photograph. The person whose photograph is republished or redisseminated may bring a civil action to enjoin the continued publication or dissemination of the photograph, and the court may impose a civil penalty of \$5,000 per day for noncompliance with the injunction. Additionally, the court must award reasonable attorney fees and court costs for the issuance and enforcement of the injunction. Moneys recovered for civil penalties must be deposited into the General Revenue Fund. The republishing or redisseminating of such photograph after a written request for removal has been made is an unfair or deceptive trade practice.

If approved by the Governor, these provisions take effect October 1, 2021.

Vote: Senate 40-0; House 118-0