

20211046e1

1 A bill to be entitled
2 An act relating to arrest booking photographs;
3 amending s. 901.43, F.S.; prohibiting the republishing
4 or redissemination of certain arrest booking
5 photographs; authorizing a person whose arrest booking
6 photograph is republished or redisseminated to bring a
7 civil action against the person or entity republishing
8 or redisseminating the photograph if such person or
9 entity was required to remove it from the publication
10 or electronic medium; authorizing a court to impose a
11 specified civil penalty; requiring a court to award
12 reasonable attorney fees and court costs; requiring
13 that recovered civil penalties be deposited into the
14 General Revenue Fund; providing that republishing or
15 redisseminating an arrest booking photograph under
16 certain circumstances constitutes an unfair or
17 deceptive trade practice; making technical changes;
18 expanding the applicability of provisions relating to
19 the dissemination of arrest booking photographs to
20 include a person or an entity whose primary business
21 model is the publishing or disseminating of such
22 photographs for a commercial purpose or pecuniary
23 gain; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Section 901.43, Florida Statutes, is amended to
28 read:

29 901.43 Dissemination of arrest booking photographs.—

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30 (1) Any person or entity engaged in the business of
31 publishing through a publicly accessible print or electronic
32 medium or otherwise disseminating arrest booking photographs of
33 persons who have previously been arrested may not solicit or
34 accept a fee or other form of payment to remove the photographs.

35 (2) A person whose arrest booking photograph is published
36 or otherwise disseminated, or his or her legal representative,
37 may make a request, in writing, for the removal of an arrest
38 booking photograph to the registered agent of the person or
39 entity who published or otherwise disseminated the photograph.
40 The written request for removal of the arrest booking photograph
41 must be sent by registered mail and include sufficient proof of
42 identification of the person whose arrest booking photograph was
43 published or otherwise disseminated and specific information
44 identifying the arrest booking photograph that the written
45 request is seeking to remove. Within 10 calendar days after ~~of~~
46 receipt of the written request for removal of the arrest booking
47 photograph, the person or entity who published or otherwise
48 disseminated the photograph shall remove the arrest booking
49 photograph without charge and may not republish or otherwise
50 redisseminate such photograph.

51 (3) (a) The person whose arrest booking photograph was
52 published or otherwise disseminated in the publication or
53 electronic medium may bring a civil action to enjoin the
54 continued publication or dissemination of the photograph if the
55 photograph is not removed within 10 calendar days after receipt
56 of the written request for removal. The court may impose a civil
57 penalty of \$1,000 per day for noncompliance with an injunction
58 and shall award reasonable attorney fees and court costs related

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59 to the issuance and enforcement of the injunction. Moneys
60 recovered for civil penalties under this ~~paragraph~~ ~~section~~ shall
61 be deposited into the General Revenue Fund.

62 (b) If a person or an entity was required to remove an
63 arrest booking photograph under this section and later
64 republishes or otherwise redisseminates the photograph in the
65 publication or electronic medium, the person whose photograph is
66 republished or redisseminated may bring a civil action to enjoin
67 the continued publication or dissemination of the photograph.
68 The court may impose a civil penalty of \$5,000 per day for
69 noncompliance with an injunction and shall award reasonable
70 attorney fees and court costs related to the issuance and
71 enforcement of the injunction. Moneys recovered for civil
72 penalties under this paragraph shall be deposited into the
73 General Revenue Fund.

74 (4) Refusal to remove an arrest booking photograph after
75 written request has been made or republishing or otherwise
76 redisseminating an arrest booking photograph after a written
77 request to remove such photograph has been made constitutes an
78 unfair or deceptive trade practice in accordance with part II of
79 chapter 501.

80 (5) This section does not apply to any person or entity
81 that publishes or disseminates information relating to arrest
82 booking photographs unless:

83 (a) The person or entity solicits or accepts payment to
84 remove the photographs; or

85 (b) The person or entity's primary business model is the
86 publishing and disseminating of arrest booking photographs for a
87 commercial purpose or pecuniary gain.

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Section 2. This act shall take effect October 1, 2021.