

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 a person or entity republishing  
8           or redisseminating the photograph if the 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; expanding the applicability  
18          of provisions relating to the dissemination of arrest  
19          booking photographs to include a person or entity  
20          whose primary business model is the publishing or  
21          dissemination of such photographs for a commercial  
22          purpose or pecuniary gain; providing an effective  
23          date.

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

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

901.43 Dissemination of arrest booking photographs.—

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

(2) A person whose arrest booking photograph is published or otherwise disseminated, or his or her legal representative, may make a request, in writing, for the removal of an arrest booking photograph to the registered agent of the person or entity who published or otherwise disseminated the photograph. The written request for removal of the arrest booking photograph must be sent by registered mail and include sufficient proof of identification of the person whose arrest booking photograph was published or otherwise disseminated and specific information identifying the arrest booking photograph that the written request is seeking to remove. Within 10 calendar days after ~~of~~ receipt of the written request for removal of the arrest booking photograph, the person or entity who published or otherwise disseminated the photograph shall remove the arrest booking photograph without charge and may not republish or otherwise 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  
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 entity was required to remove an arrest  
63 booking photograph under this section and later republishes or  
64 otherwise redisseminates the photograph in the publication or  
65 electronic medium, the person whose photograph is republished or  
66 redisseminated may bring a civil action to enjoin the continued  
67 publication or dissemination of the photograph. The court may  
68 impose a civil penalty of \$5,000 per day for noncompliance with  
69 an injunction and shall award reasonable attorney fees and court  
70 costs related to the issuance and enforcement of the injunction.  
71 Moneys recovered for civil penalties under this paragraph shall  
72 be deposited into the General Revenue Fund.

73           (4) Refusal to remove an arrest booking photograph after  
74 written request has been made or republishing or otherwise  
75 redisseminating an arrest booking photograph after a written

76 | request to remove such photograph has been made constitutes an  
77 | unfair or deceptive trade practice in accordance with part II of  
78 | chapter 501.

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

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

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

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