HB135

155970-1

By Representative England

RFD: Public Safety and Homeland Security

First Read: 14-JAN-14

PFD: 01/10/2014
SYNOPSIS: This bill would require the operator of a website containing an arrest photograph and personal information of a person charged with a crime to remove, at no charge, the photograph and information within a specified period after notice that the person was acquitted, the charges were dropped, or the charges were otherwise resolved without conviction.

This bill would also provide that the failure to remove the photograph and personal information upon request is a deceptive trade practice and that an aggrieved individual is entitled to all rights and remedies under the Deceptive Trade Practices Act.

A BILL
TO BE ENTITLED
AN ACT
To require the operator of a website publishing an
arrest photograph of an individual to remove the photograph
and personal information within a specified period upon notice
of acquittal or other resolution of the charges without a
conviction; to provide that failure to remove a photograph and
information is a deceptive trade practice; and to provide
remedies for violations.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) For the purposes of this section, the
following terms shall have the following meanings:

(1) PHOTOGRAPH. A photograph of a subject individual
that was taken in this state by an arresting law enforcement
agency.

(2) SUBJECT INDIVIDUAL. An individual who was
arrested and had his or her photograph taken and the
individual was acquitted by a judge or jury of the charges
related to the arrest or the charges were dropped or otherwise
resolved without a conviction.

(b)(1) Any person who is engaged in any activity
involving or using a computer or computer network who
publishes on the person's publicly available website a subject
individual's arrest booking photograph for purposes of
commerce shall be deemed to be transacting business in this
state.

(2) Within 30 days of the sending of a written
request by a subject individual, including his or her name,
date of birth, date of arrest, and the name of the arresting
law enforcement agency, the person shall, without fee or
compensation, remove from such person's website the subject
individual's arrest booking photograph and any other personal
information. A written request shall be transmitted via
certified mail, return receipt requested, or statutory
overnight delivery, to the registered agent, principal place
of business, or primary residence of the person who published
the website.

(3) Failure of a person to comply with this section
is unlawful and shall be deemed a deceptive trade practice
under Chapter 19, Title 8, Code of Alabama 1975. A subject
individual aggrieved by a violation of this section is
entitled to all remedies, including civil penalties, under
Chapter 19, Title 8, Code of Alabama 1975.

Section 2. This act shall become effective on the
first day of the third month following its passage and
approval by the Governor, or its otherwise becoming law.