BOOKING PHOTOGRAPHS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill imposes booking photograph removal and destruction requirements on certain publications and websites that publish and post booking photographs.

Highlighted Provisions:

This bill:
< defines terms;
< requires a certain publication or website to remove and destroy a booking photograph when the individual in the booking photograph requests removal and destruction within certain time periods;
< prohibits a certain publication or website from:
   C conditioning removal and destruction of a booking photograph on the payment of a fee depending on the disposition of the related criminal charge; or
   C conditioning removal and destruction of a booking photograph on the payment of a fee above a certain amount in certain circumstances;
< for a booking photograph publication or website that does not comply with a requirement to remove and destroy a booking photograph:
   C allows for the imposition of a civil penalty; and
   C provides for liability for certain legal costs; and
< makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:
Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-30 is amended to read:

17-22-30. Prohibition on providing copy of booking photograph -- Statement required -- Criminal liability for false statement -- Remedy for failure to remove or delete.

(1) As used in this section:

(a) "Booking photograph" means a photograph or image of an individual that is generated:

(i) for identification purposes; and

(ii) when the individual is booked into a county jail.

(b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or website that requires the payment of a fee or other consideration in order to remove or delete a booking photograph from the publication or website.

(2) A sheriff may not provide a copy of a booking photograph in any format to a person requesting a copy of the booking photograph if:

(a) the booking photograph will be placed in a publish-for-pay publication or posted to a publish-for-pay website;

(b) removal of the booking photograph from the publication or website requires the payment of a fee or other consideration.

(3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at the time of making the request, submit a statement signed by the person affirming that the booking photograph will not be placed in a publish-for-pay publication or posted to a publish-for-pay website.

(b) A person who submits a false statement under Subsection (3)(a) is subject to
criminal liability as provided in Section 76-8-504.

(4) (a) Except as provided in Subsection (5), a publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within 30 calendar days after the day on which the individual makes the request.

(b) A publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) may not condition removal or destruction of the booking photograph on the payment of a fee in an amount greater than $50.

(c) If the publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) does not remove and destroy the booking photograph in accordance with Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $50 per day for each day after the 30-day deadline described in Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(5) (a) A publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within seven calendar days after the day on which the individual makes the request if:

(i) the booking photograph relates to a criminal charge;

(A) on which the individual was acquitted or not prosecuted; or

(B) that was expunged, vacated, or pardoned; and

(ii) the individual submits, in relation to the request, evidence of a disposition described in Subsection (5)(a)(i).

(b) If the publish-for-pay publication or publish-for-pay website described in

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(i) all costs, including reasonable attorney fees, resulting from any legal action that the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $100 per day for each day after the seven-day deadline described in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(c) An act of a publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on the payment of any fee or amount constitutes theft by extortion under Section 76-6-406.