

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 1665 & 1335

97TH GENERAL ASSEMBLY

5563H.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to the publishing of certain photographs on internet websites, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be known as section 407.1150, to read as follows:

407.1150. 1. As used in this section, the following words and phrases mean:

(1) "Booking photograph", a photograph of a subject individual that was taken in this state by an arresting law enforcement agency;

(2) "For purposes of commerce", shall mean requiring payment to remove any booking photograph published on a website owned or maintained by a business, firm, corporation, or individual, but shall not include any business or organization that is engaged in bona fide news coverage or production of a feature production for public informational, entertainment, or educational purposes;

(3) "Subject individual", an individual who was arrested and had his or her photograph taken by law enforcement during the processing of that arrest.

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

3. Within thirty 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, such person shall, without fee or compensation, remove from such

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 person's website the subject individual's arrest booking photograph. Such written request
19 shall be transmitted via certified mail, return receipt requested, or statutory overnight
20 delivery to the registered agent, principal place of business, or primary residence of the
21 person who published the website.

22 4. Any person who willfully and knowingly engages in any act or practice that fails
23 to comply with the provisions of this section shall be guilty of a class A misdemeanor.

24 5. In addition to the remedies already provided in this section, any consumer that
25 suffers a loss or harm as a result of any unlawful acts as set out in this section may be
26 awarded an amount equal to ten thousand dollars or actual and punitive damages,
27 whichever is greater, and in addition may be awarded reasonable attorney's fees, court
28 costs, and any other remedies provided by law. Humiliation or embarrassment shall be
29 adequate to show that the plaintiff has incurred damages; however, no physical
30 manifestation of either humiliation or embarrassment is necessary for damages to be
31 shown.

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