

South Carolina General Assembly
121st Session, 2015-2016

~~Indicates Matter Stricken~~
Indicates New Matter

S. 255

STATUS INFORMATION

General Bill
Sponsors: Senator Thurmond
Document Path: I:\s-jud\bill\thurmond\jud0024.jjg.docx
Companion/Similar bill(s): 3700

Introduced in the Senate on January 13, 2015 Currently
residing in the Senate Committee on **Judiciary**

Summary: Destruction of booking and arrest records

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/10/2014	Senate	Prefiled
12/10/2014	Senate	Referred to Committee on Judiciary
1/13/2015	Senate	Introduced and read first time (Senate Journal-page 155)
1/13/2015	Senate	Referred to Committee on Judiciary (Senate Journal-page 155)
1/30/2015	Senate	Referred to Subcommittee: Thurmond (ch), Allen, Corbin

View the latest [legislative information](#) at the website

VERSIONS OF THIS BILL

[12/10/2014](#)

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

A BILL

TO AMEND SECTION [17-1-40](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESTRUCTION OF ARREST AND BOOKING RECORDS, SO AS TO PROVIDE THAT A PERSON OR ENTITY WHO PUBLISHES ON THE PERSON OR ENTITY'S WEBSITE THE ARREST AND BOOKING RECORDS OF A PERSON WHOSE CHARGES HAVE BEEN DISCHARGED OR DISMISSED, OR OF A PERSON WHO IS FOUND NOT GUILTY OF A CHARGE, SHALL, WITHOUT FEE OR COMPENSATION, REMOVE THE ARREST AND BOOKING RECORDS WITHIN THIRTY DAYS OF A WRITTEN REQUEST, AND TO PROVIDE THE PENALTIES FOR A PERSON OR ENTITY WHO FAILS TO REMOVE THE ARREST AND BOOKING RECORDS.

Be it enacted by the General Assembly of the State of South Carolina:

"Section 17-1-40. (A) A person who after being charged with a criminal offense and the charge is discharged, proceedings against the person are dismissed, or the person is found not guilty of the charge, the arrest and booking record, files, mug shots, and fingerprints of the person must be destroyed and no evidence of the record pertaining to the charge may be retained by any municipal, county, or state law enforcement agency. Provided, however, that local and state detention and correctional facilities may retain booking records, identifying documentation and materials, and other institutional reports and files under seal, on all persons who have been processed, detained, or incarcerated, for a period not to exceed three years from the date of the expungement order to manage their statistical and professional information needs and, where necessary, to defend such facilities during litigation proceedings except when an action, complaint, or inquiry has been initiated. Information retained by a local or state detention or correctional facility as permitted under this section after an expungement order has been issued is not a public document and is exempt from disclosure. Such information only may be disclosed by judicial order, pursuant to a subpoena filed in a civil action, or as needed during litigation proceedings. A person who otherwise intentionally retains the arrest and booking record, files, mug shots, fingerprints, or any evidence of the record pertaining to a charge discharged or dismissed pursuant to this section is guilty of contempt of court.

(B) A municipal, county, or state agency may not collect a fee for the destruction of records pursuant to the provisions of this section.

(C) This section does not apply to a person who is charged with a violation of Title 50, Title 56, an enactment pursuant to the authority of counties and municipalities provided in Titles 4 and 5, or any other state criminal offense if the person is not fingerprinted for the violation.

(D) The State Law Enforcement Division is authorized to promulgate regulations that allow for the electronic transmission of information pursuant to this section.

(E)(1) A person or entity who publishes on the person or entity's website the arrest and booking records, including mug shots, of a person who is arrested and booked in South Carolina is deemed to be transacting business in South Carolina.

(2) Except as provided in item (3), within thirty days of the sending of a written request by a person described in subsection (A), including the person's name, date of birth, date of arrest, and the name of the arresting law enforcement agency, a person or entity shall, without fee or compensation, remove from the person or entity's website any arrest and booking records, including mug shots, of the person described in subsection (A).

(3) If the original charge against the person described in subsection (A) is discharged or dismissed as a result of the person pleading to a lesser offense, the person or entity who publishes the website is not required to remove the records; however, the person or entity shall change any published information to reflect the lesser offense instead of the original charge.

(4) The written request must be sent via certified mail, return receipt requested, to the registered agent, principal place of business, or primary residence of the person or entity who publishes the website.

(5) A person or entity who publishes a website and violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or be imprisoned not more than thirty days, or both.

(6) A person described in subsection (A) may file a civil cause of action against a person or entity who

publishes a website and violates this subsection."

SECTION 2. This act takes effect upon approval by the Governor.

----XX----