

By Senator Bean

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1 A bill to be entitled
2 An act relating to arrest booking photographs;
3 amending s. 901.43, F.S.; expanding the applicability
4 of provisions relating to the dissemination of arrest
5 booking photographs to include a person or entity
6 whose primary business model is the publishing or
7 dissemination of such photographs for a commercial
8 purpose or pecuniary gain; revising applicability;
9 providing an effective date.

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

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

15 901.43 Dissemination of arrest booking photographs.—

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

21 (2) A person whose arrest booking photograph is published
22 or otherwise disseminated, or his or her legal representative,
23 may make a request, in writing, for the removal of an arrest
24 booking photograph to the registered agent of the person or
25 entity who published or otherwise disseminated the photograph.
26 The written request for removal of the arrest booking photograph
27 must be sent by registered mail and include sufficient proof of
28 identification of the person whose arrest booking photograph was
29 published or otherwise disseminated and specific information

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30 identifying the arrest booking photograph that the written
31 request is seeking to remove. Within 10 days of receipt of the
32 written request for removal of the arrest booking photograph,
33 the person or entity who published or otherwise disseminated the
34 photograph shall remove the arrest booking photograph without
35 charge.

36 (3) The person whose arrest booking photograph was
37 published or otherwise disseminated in the publication or
38 electronic medium may bring a civil action to enjoin the
39 continued publication or dissemination of the photograph if the
40 photograph is not removed within 10 calendar days after receipt
41 of the written request for removal. The court may impose a civil
42 penalty of \$1,000 per day for noncompliance with an injunction
43 and shall award reasonable attorney fees and court costs related
44 to the issuance and enforcement of the injunction. Moneys
45 recovered for civil penalties under this section shall be
46 deposited into the General Revenue Fund.

47 (4) Refusal to remove an arrest booking photograph after
48 written request has been made constitutes an unfair or deceptive
49 trade practice in accordance with part II of chapter 501.

50 (5) This section does not apply to:

51 (a) Any person or entity that publishes or disseminates
52 information relating to arrest booking photographs unless:

53 1. The person or entity solicits or accepts payment to
54 remove the photographs; or

55 2. The person or entity's primary business model is the
56 publishing and disseminating of arrest booking photographs for a
57 commercial purpose or pecuniary gain.

58 (b) Any act performed for the purpose of disseminating news

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59 to the public, including gathering, publishing, or broadcasting
60 information to the public for a news-related purpose, or to any
61 other act performed by a publisher, owner, agent, employee, or
62 retailer of a newspaper, radio station, radio network,
63 television station, television broadcast network, cable
64 television network, or other online news outlet associated with
65 any news organization in connection with the dissemination of
66 news to the public.

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