

SECOND REGULAR SESSION

HOUSE BILL NO. 1335

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARNES.

4692H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 537.110, RSMo, and to enact in lieu thereof three new sections relating to the publishing of booking photographs, with penalty provisions.

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

Section A. Section 537.110, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 537.110, 544.725 and 578.800, to read as follows:

537.110. **1. It is actionable to publish:**

(1) Falsely and maliciously, in any manner whatsoever, that any person has been guilty of fornication or adultery; or

(2) A booking photograph falsely in violation of section 544.725.

2. A violation of subdivision (2) of subsection 1 of this section shall result in an award equal to ten thousand dollars or actual damages, whichever is greater, and in addition shall include attorney's fees. Humiliation or embarrassment shall be an adequate show that the plaintiff has incurred damages; however, no physical manifestation of either humiliation or embarrassment is necessary for damages to be shown.

544.725. 1. No business, firm, or corporation shall require payment to remove any booking photograph published on a website owned or maintained by the business or subsidiary of the business.

2. Any business, firm, or corporation that publishes a booking photograph taken as a result of an arrest in this state must include a valid email address, phone number, fax number, or mailing address on its website that will allow any person to contact the business regarding any photograph published on its site.

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.

8 3. In order to dispute the accuracy of information associated with a booking
9 photograph or the validity of a booking photograph published on a website by a business,
10 firm, or corporation, an individual shall contact the business at the address or number
11 listed on the business's website and request that the business show proof of the accuracy
12 or validity of the information posted.

13 4. If an individual has disputed the accuracy or validity of information posted on
14 a website under this section, the business, firm, or corporation shall conduct an
15 investigation regarding the accuracy and validity and, within forty-five days of the original
16 contact with the individual, conclude the investigation and respond to the individual's
17 request in writing.

18 5. If it is determined that the result of the investigation shows that the photograph
19 is not of the person that it purports to be or the arrest charges or information associated
20 with the photograph are inaccurate, the business, firm, or corporation shall remove the
21 photograph within fifteen days from the conclusion of the investigation at no charge to the
22 individual.

23 6. Failure to comply with the provisions of this section shall result in a five
24 thousand dollar fine per day for each photograph erroneously displayed on the website.

25 7. For the purposes of this section, a "booking photograph" shall include a
26 photograph or image of an individual that is generated for identification purposes when
27 the individual is booked into a county jail.

578.800. 1. Any individual who requests a copy of a booking photograph must sign
2 a sworn statement that the photograph will not be distributed to any business, firm, or
3 corporation to be published on a website requiring payment for the removal of a booking
4 photograph or published by the individual on such a website.

5 2. For the purposes of this section, a "booking photograph" shall include a
6 photograph or image of an individual that is generated for identification purposes when
7 the individual is booked into a county jail.

8 3. Each publication of a photograph in violation of the provisions of subsection 1
9 of this section shall be a class A misdemeanor.

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