

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1665 & 1335
97TH GENERAL ASSEMBLY

5563H.03C

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
2 known as section 407.1150, to read as follows:

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

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

4 **(2) "For purposes of commerce", shall not include any business or organization that**
5 **is engaged in bona fide news coverage or production of a feature production for public**
6 **informational, entertainment, or educational purposes;**

7 **(3) "Subject individual", an individual who was arrested and had his or her**
8 **photograph taken and:**

9 **(a) Access to his or her case or charges was restricted under section 610.105;**

10 **(b) Prior to indictment, accusation, or other charging instrument, his or her case**
11 **was never referred for further prosecution to the proper prosecuting attorney by the**
12 **arresting law enforcement agency and the offense against such individual was closed by**
13 **the arresting law enforcement agency;**

14 **(c) Prior to indictment, accusation, or other charging instrument, the statute of**
15 **limitations expired;**

16 **(d) Prior to indictment, accusation, or other charging instrument, his or her case**
17 **was referred to the prosecuting attorney but was later dismissed;**

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 (e) Prior to indictment, accusation, or other charging instrument, the grand jury
19 returned two no bills;

20 (f) After indictment or accusation, all charges were dismissed or nolle prossed; or

21 (g) The individual was acquitted of all of the charges by a judge or jury.

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

26 3. Within thirty days of the sending of a written request by a subject individual,
27 including his or her name, date of birth, date of arrest, and the name of the arresting law
28 enforcement agency, such person shall, without fee or compensation, remove from such
29 person's website the subject individual's arrest booking photograph. Such written request
30 shall be transmitted via certified mail, return receipt requested, or statutory overnight
31 delivery to the registered agent, principal place of business, or primary residence of the
32 person who published the website.

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

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

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