

HOUSE BILL NO. 1665

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JONES (50) (Sponsor) AND BARNES (Co-sponsor).

5563L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto three new sections 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 three new sections, to be known as sections 407.1150, 407.1151, and 407.1152, to read as follows:

407.1150. As used in sections 407.1150 to 407.1152, the following words and phrases mean:

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

(2) "Subject individual", an individual who was arrested and had his or her photograph taken and:

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

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

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

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

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

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 (f) After indictment or accusation, all charges were dismissed or nolle prossed;
- 19 (g) The individual was acquitted of all of the charges by a judge or jury.

20 **407.1151. Any person who is engaged in any activity involving or using a computer**
2 **or computer network who publishes on such person's website a subject individual's arrest**
3 **booking photograph for purposes of commerce shall be deemed to be transacting business**
4 **in this state. Within thirty days of the sending of a written request by a subject individual,**
5 **including his or her name, date of birth, date of arrest, and the name of the arresting law**
6 **enforcement agency, such person shall, without fee or compensation, remove from such**
7 **person's website the subject individual's arrest booking photograph. Such written request**
8 **shall be transmitted via certified mail, return receipt requested, or statutory overnight**
9 **delivery, to the registered agent, principal place of business, or primary residence of the**
10 **person who published the website. A failure to comply with this section shall be unlawful.**

21 **407.1152. It is unlawful under section 407.1151 to violate any provision of sections**
2 **407.1150 and 407.1151, and any person who willfully and knowingly engages in any act or**
3 **practice declared to be unlawful by any provision of section 407.1151 shall be guilty of a**
4 **class A misdemeanor. In addition to the remedies already provided in this section, any**
5 **consumer that suffers a loss or harm as a result of any unlawful acts as set out in sections**
6 **407.1150 and 407.1151 may recover actual and punitive damages, reasonable attorney's**
7 **fees, court costs, and any other remedies provided by law.**

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