

CHAPTER 2021-132

Committee Substitute for Senate Bill No. 1046

An act relating to arrest booking photographs; amending s. 901.43, F.S.; prohibiting the republishing or redissemination of certain arrest booking photographs; authorizing a person whose arrest booking photograph is republished or redisseminated to bring a civil action against the person or entity republishing or redisseminating the photograph if such person or entity was required to remove it from the publication or electronic medium; authorizing a court to impose a specified civil penalty; requiring a court to award reasonable attorney fees and court costs; requiring that recovered civil penalties be deposited into the General Revenue Fund; providing that republishing or redisseminating an arrest booking photograph under certain circumstances constitutes an unfair or deceptive trade practice; making technical changes; expanding the applicability of provisions relating to the dissemination of arrest booking photographs to include a person or an entity whose primary business model is the publishing or disseminating of such photographs for a commercial purpose or pecuniary gain; providing an effective date.

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

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

901.43 Dissemination of arrest booking photographs.—

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

(2) A person whose arrest booking photograph is published or otherwise disseminated, or his or her legal representative, may make a request, in writing, for the removal of an arrest booking photograph to the registered agent of the person or entity who published or otherwise disseminated the photograph. The written request for removal of the arrest booking photograph must be sent by registered mail and include sufficient proof of identification of the person whose arrest booking photograph was published or otherwise disseminated and specific information identifying the arrest booking photograph that the written request is seeking to remove. Within 10 calendar days after ~~of~~ receipt of the written request for removal of the arrest booking photograph, the person or entity who published or otherwise disseminated the photograph shall remove the arrest booking photograph without charge and may not republish or otherwise redisseminate such photograph.

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

(b) If a person or an entity was required to remove an arrest booking photograph under this section and later republishes or otherwise redisseminates the photograph in the publication or electronic medium, the person whose photograph is republished or redisseminated may bring a civil action to enjoin the continued publication or dissemination of the photograph. The court may impose a civil penalty of \$5,000 per day for noncompliance with an injunction and shall award reasonable attorney fees and court costs related to the issuance and enforcement of the injunction. Moneys recovered for civil penalties under this paragraph shall be deposited into the General Revenue Fund.

(4) Refusal to remove an arrest booking photograph after written request has been made or republishing or otherwise redisseminating an arrest booking photograph after a written request to remove such photograph has been made constitutes an unfair or deceptive trade practice in accordance with part II of chapter 501.

(5) This section does not apply to any person or entity that publishes or disseminates information relating to arrest booking photographs unless:

(a) The person or entity solicits or accepts payment to remove the photographs; or

(b) The person or entity's primary business model is the publishing and disseminating of arrest booking photographs for a commercial purpose or pecuniary gain.

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

Approved by the Governor June 21, 2021.

Filed in Office Secretary of State June 21, 2021.