

BOOKING PHOTOGRAPHS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: _____

LONG TITLE

General Description:

This bill imposes booking photograph removal and destruction requirements on publications and websites that publish and post booking photographs.

Highlighted Provisions:

This bill:

▸ requires a publication or website to remove and destroy a booking photograph when the individual in the booking photograph requests removal and destruction within certain time periods;

▸ prohibits a booking photograph publication or website from:

• conditioning removal and destruction of a booking photograph on the payment of a fee depending on the disposition of the related criminal charge; or

• conditioning removal and destruction of a booking photograph on the payment of a fee above a certain amount in certain circumstances; and

▸ for a booking photograph publication or website that does not comply with a requirement to remove and destroy a booking photograph:

• allows a county to impose a civil penalty; and

• provides for liability for certain legal costs.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **17-22-30**, as enacted by Laws of Utah 2013, Chapter 404



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **17-22-30** is amended to read:

35 **17-22-30. Prohibition on providing copy of booking photograph -- Statement**
36 **required -- Criminal liability for false statement.**

37 (1) As used in this section, "booking photograph" means a photograph or image of an
38 individual that is generated:

- 39 (a) for identification purposes; and
- 40 (b) when the individual is booked into a county jail.

41 (2) A sheriff may not provide a copy of a booking photograph in any format to a person
42 requesting a copy of the booking photograph if:

- 43 (a) the booking photograph will be placed in a publication or posted to a website; and
- 44 (b) removal of the booking photograph from the publication or website requires the
45 payment of a fee or other consideration.

46 (3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at
47 the time of making the request, submit a statement signed by the person affirming that the
48 booking photograph will not be placed in a publication or posted to a website that requires the
49 payment of a fee or other consideration in order to remove or delete the booking photograph
50 from the publication or website.

51 (b) A person who submits a false statement under Subsection (3)(a) is subject to
52 criminal liability as provided in Section **76-8-504**.

53 (4) (a) Except as provided in Subsection (5), a publication that publishes or a website
54 that posts booking photographs shall remove and destroy a booking photograph of an
55 individual who submits a request for removal and destruction within 30 calendar days after the
56 day on which the individual makes the request.

57 (b) If the publication or website described in Subsection (4)(a) does not remove and
58 destroy the booking photograph in accordance with Subsection (4)(a):

59 (i) the county may impose a civil penalty of \$50 per day until the day on which the
60 publication or website removes and destroys the booking photograph; and

61 (ii) the publication or website is liable for costs of a legal action that the individual
62 brings in relation to the failure to remove and destroy the booking photograph.

63 (c) A publication or website described in Subsection (4)(a) may not condition removal
64 or destruction of the booking photograph on the payment of a fee greater than \$50.

65 (5) (a) A publication that publishes or a website that posts booking photographs shall
66 remove and destroy a booking photograph of an individual who submits a request for removal
67 and destruction within seven calendar days after the day on which the individual makes the
68 request if:

69 (i) the booking photograph relates to a criminal charge:

70 (A) on which the individual was acquitted or not prosecuted; or

71 (B) that was expunged, vacated, or pardoned; and

72 (ii) the individual submits, in relation to the request, evidence of a disposition
73 described in Subsection (5)(a)(i).

74 (b) If the publication or website described in Subsection (5)(a) does not remove and
75 destroy the booking photograph in accordance with Subsection (5)(a):

76 (i) the county may impose a civil penalty of \$100 per day until the day on which the
77 publication or website removes and destroys the booking photograph; and

78 (ii) the publication or website is liable for costs of a legal action that the individual
79 brings in relation to the failure to remove and destroy the booking photograph.

80 (c) An act of a publication or website described in Subsection (5)(a) that seeks to
81 condition removal or destruction of the booking photograph on the payment of any fee or
82 amount constitutes theft by extortion under Section [76-6-406](#).