

## SB0185S01 compared with SB0185

~~text~~ shows text that was in SB0185 but was deleted in SB0185S01.

Inserted text shows text that was not in SB0185 but was inserted into SB0185S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Daniel W. Thatcher proposes the following substitute bill:

### BOOKING PHOTOGRAPHS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

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

##### Highlighted Provisions:

This bill:

▶ defines terms:

- ▶ requires a certain 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~~ certain 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

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- 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}~~ for the imposition of a civil penalty; ~~{and}~~
  - provides for liability for certain legal costs ~~{.}; and~~
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

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

**17-22-30. Prohibition on providing copy of booking photograph -- Statement required -- Criminal liability for false statement -- Remedy for failure to remove or delete.**

(1) As used in this section ~~[-];~~

(a) [ "booking ] "Booking photograph" means a photograph or image of an individual that is generated:

(a) for identification purposes; and

(b) when the individual is booked into a county jail.

(b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or website that requires the payment of a fee or other consideration in order to remove or delete a booking photograph from the publication or website.

(2) A sheriff may not provide a copy of a booking photograph in any format to a person requesting a copy of the booking photograph if ~~[-];~~

~~\_\_\_\_\_}~~ (a) the booking photograph will be placed in a publish-for-pay publication or posted

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to a publish-for-pay website~~;~~ ~~and~~.

~~[(b) removal of the booking photograph from the publication or website requires the payment of a fee or other consideration.]~~

(3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at the time of making the request, submit a statement signed by the person affirming that the booking photograph will not be placed in a publish-for-pay publication or posted to a publish-for-pay website ~~[that requires the payment of a fee or other consideration in order to remove or delete the booking photograph from the publication or website].~~

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

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

~~(b) {If the} A publish-for-pay publication or {website described in Subsection (4)(a) does not remove and destroy the booking photograph in accordance with Subsection (4)(a):~~

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

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

~~—— (c) A publication or } publish-for-pay website described in Subsection (4)(a) may not condition removal or destruction of the booking photograph on the payment of a fee in an amount greater than \$50.~~

(c) If the publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) does not remove and destroy the booking photograph in accordance with Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photo; and

(ii) a civil penalty of \$50 per day for each day after the 30-day deadline described in Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the

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publish-for-pay publication or on the publish-for-pay website.

(5) (a) A publish-for-pay publication ~~{that publishes or a}~~ or a publish-for-pay website ~~{that posts booking photographs}~~ shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within seven calendar days after the day on which the individual makes the request if:

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

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

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

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

(b) If the publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) does not remove and destroy the booking photograph in accordance with Subsection (5)(a):

~~—— (i) the county may impose a civil penalty of \$100 per day until the day on which the~~ publish-for-pay publication or ~~{website removes and destroys the booking photograph; and~~

~~—— (ii) the publication or}~~ publish-for-pay website is liable for:

(i) all costs ~~{of a}~~ , including reasonable attorney fees, resulting from any legal action that the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking ~~{photograph}~~ photo; and

(ii) a civil penalty of \$100 per day for each day after the seven-day deadline described in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

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