



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB0044

Introduced 1/9/2019, by Rep. La Shawn K. Ford

#### SYNOPSIS AS INTRODUCED:

5 ILCS 140/2.15  
815 ILCS 505/2000

Amends the Freedom of Information Act. Provides that a law enforcement agency may not electronically provide or publish booking photographs unless: (1) the booking photograph is posted to social media to assist in the search for a missing person or to assist in the search for a fugitive, person of interest, or individual wanted in relation to a crime other than a petty offense, business offense, Class C misdemeanor, or Class B misdemeanor; or (2) the person is convicted of a crime other than a petty offense, business offense, Class C misdemeanor, or Class B misdemeanor. Deletes language providing that a law enforcement agency may publish on its social media website booking photographs relating to charges other than civil offenses, petty offenses, business offenses, Class C misdemeanors, and Class B misdemeanors. Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that it is an unlawful practice for a for-profit publishing entity that publishes on a publicly available Internet website or in any other publication that charges a fee for removal or correction of the information to fail to remove within 30 days, without the imposition of any fee, the criminal record information of a person who provides the entity with: a pardon from the Governor or a certificate of innocence stating that the person is innocent of all offenses relating to the criminal record information; court records indicating that the person was found not guilty or that the case ended without a finding of guilt; or an order to expunge or seal the criminal record information of the person. Provides that a violating entity is subject to a civil penalty of \$1,000 per day, plus attorney's fees, which shall be deposited into the General Revenue Fund.

LRB101 04046 HEP 49054 b

1 AN ACT concerning arrest records.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Freedom of Information Act is amended by  
5 changing Section 2.15 as follows:

6 (5 ILCS 140/2.15)

7 Sec. 2.15. Arrest reports and criminal history records.

8 (a) Arrest reports. The following chronologically  
9 maintained arrest and criminal history information maintained  
10 by State or local criminal justice agencies shall be furnished  
11 as soon as practical, but in no event later than 72 hours after  
12 the arrest, notwithstanding the time limits otherwise provided  
13 for in Section 3 of this Act: (i) information that identifies  
14 the individual, including the name, age, address, and  
15 photograph, when and if available; (ii) information detailing  
16 any charges relating to the arrest; (iii) the time and location  
17 of the arrest; (iv) the name of the investigating or arresting  
18 law enforcement agency; (v) if the individual is incarcerated,  
19 the amount of any bail or bond; and (vi) if the individual is  
20 incarcerated, the time and date that the individual was  
21 received into, discharged from, or transferred from the  
22 arresting agency's custody.

23 (b) Criminal history records. The following documents

1 maintained by a public body pertaining to criminal history  
2 record information are public records subject to inspection and  
3 copying by the public pursuant to this Act: (i) court records  
4 that are public; (ii) records that are otherwise available  
5 under State or local law; and (iii) records in which the  
6 requesting party is the individual identified, except as  
7 provided under Section 7(1)(d)(vi).

8 (c) Information described in items (iii) through (vi) of  
9 subsection (a) may be withheld if it is determined that  
10 disclosure would: (i) interfere with pending or actually and  
11 reasonably contemplated law enforcement proceedings conducted  
12 by any law enforcement agency; (ii) endanger the life or  
13 physical safety of law enforcement or correctional personnel or  
14 any other person; or (iii) compromise the security of any  
15 correctional facility.

16 (d) The provisions of this Section do not supersede the  
17 confidentiality provisions for law enforcement or arrest  
18 records of the Juvenile Court Act of 1987.

19 (e) Notwithstanding the requirements of subsection (a), a  
20 law enforcement agency may not electronically provide or  
21 publish booking photographs, commonly known as "mugshots", ~~on~~  
22 ~~its social media website in connection with civil offenses,~~  
23 ~~petty offenses, business offenses, Class C misdemeanors, and~~  
24 ~~Class B misdemeanors~~ unless: (1) the booking photograph is  
25 posted to social media to assist in the search for a missing  
26 person or to assist in the search for a fugitive, person of

1 interest, or individual wanted in relation to a crime other  
2 than a petty offense, business offense, Class C misdemeanor, or  
3 Class B misdemeanor; or (2) the person is convicted of a crime  
4 other than a petty offense, business offense, Class C  
5 misdemeanor, or Class B misdemeanor.

6 (Source: P.A. 99-298, eff. 8-6-15; 100-927, eff. 1-1-19.)

7 Section 10. The Consumer Fraud and Deceptive Business  
8 Practices Act is amended by changing Section 2000 as follows:

9 (815 ILCS 505/2000)

10 Sec. 2000. Criminal record information.

11 (a) It is an unlawful practice for any person engaged in  
12 publishing or otherwise disseminating criminal record  
13 information through a print or electronic medium to solicit or  
14 accept the payment of a fee or other consideration to remove,  
15 correct, or modify said criminal record information.

16 (b) For the purposes of this Section, "criminal record  
17 information" includes any and all of the following:

18 (1) descriptions or notations of any arrests, any  
19 formal criminal charges, and the disposition of those  
20 criminal charges, including, but not limited to, any  
21 information made available under Section 4a of the State  
22 Records Act or Section 3b of the Local Records Act;

23 (2) photographs of the person taken pursuant to an  
24 arrest or other involvement in the criminal justice system;

1 or

2 (3) personal identifying information, including a  
3 person's name, address, date of birth, photograph, and  
4 social security number or other government-issued  
5 identification number.

6 (c) A person or entity that publishes for profit a person's  
7 criminal record information on a publicly available Internet  
8 website or in any other publication that charges a fee for  
9 removal or correction of the information must correct any  
10 errors in the individual's criminal history information within  
11 5 business days after notification of an error. Failure to  
12 correct an error in the individual's criminal record  
13 information constitutes an unlawful practice within the  
14 meaning of this Act.

15 (d) A person whose criminal record information is published  
16 for profit on a publicly available Internet website or in any  
17 other publication that charges a fee for removal or correction  
18 of the information may demand the publisher to correct the  
19 information if the subject of the information, or his or her  
20 representative, sends a letter, via certified mail, to the  
21 publishing entity demanding the information be corrected and  
22 providing documentation of the correct information.

23 (e) Failure by a for-profit publishing entity that  
24 publishes on a publicly available Internet website or in any  
25 other publication that charges a fee for removal or correction  
26 of the information to correct the person's published criminal

1 record information within 5 business days after receipt of the  
2 notice, demand for correction, and the provision of correct  
3 information, constitutes an unlawful and deceptive practice  
4 within the meaning of this Act. In addition to any other remedy  
5 available under this Act, a person who has been injured by a  
6 violation of this Section is entitled to the damages of \$100  
7 per day, plus attorney's fees, for the publisher's failure to  
8 correct the criminal record information.

9 (e-5) It is an unlawful practice for a for-profit  
10 publishing entity that publishes on a publicly available  
11 Internet website or in any other publication that charges a fee  
12 for removal or correction of the information to fail to remove  
13 within 30 days, without the imposition of any fee, the criminal  
14 record information of a person who provides the entity with:

15 (1) a pardon from the Governor stating that the pardon  
16 is issued on the ground of innocence of the charges  
17 relating to the criminal record information;

18 (2) a certificate of innocence, issued to the person  
19 under Section 2-702 of the Code of Civil Procedure, finding  
20 that the person is innocent of all charges relating to the  
21 criminal record information;

22 (3) court records indicating that the person was found  
23 not guilty or that the case ended without a finding of  
24 guilt; or

25 (4) an order to expunge or seal the criminal record  
26 information of the person.

1       In addition to any other remedy available under this Act,  
2       an entity that violates this subsection is subject to a civil  
3       penalty of \$1,000 per day, plus attorney's fees. Any proceeds  
4       recovered under this subsection shall be deposited into the  
5       General Revenue Fund.

6       (f) This Section does not apply to a play, book, magazine,  
7       newspaper, musical, composition, visual work, work of art,  
8       audiovisual work, radio, motion picture, or television  
9       program, or a dramatic, literary, or musical work.

10       (g) This Section does not apply to a news medium or  
11       reporter as defined in Section 8-902 of the Code of Civil  
12       Procedure.

13       (h) This Section does not apply to the Illinois State  
14       Police.

15       (i) This Section does not apply to a consumer reporting  
16       agency as defined under 15 U.S.C. 1681a(f).

17       (j) Nothing in this Section shall be construed to impose  
18       liability on an interactive computer service, as defined in 47  
19       U.S.C. 230(f)(2), for content provided by another person.

20       (Source: P.A. 100-927, eff. 1-1-19.)