



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3978

Introduced 3/4/2021, 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 a social networking website 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 networking 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 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.

LRB102 04344 HEP 14362 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
17 location of the arrest; (iv) the name of the investigating or
18 arresting law enforcement agency; (v) if the individual is
19 incarcerated, the amount of any bail or bond; and (vi) if the
20 individual is incarcerated, the time and date that the
21 individual was received into, discharged from, or transferred
22 from the 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
3 and copying by the public pursuant to this Act: (i) court
4 records that are public; (ii) records that are otherwise
5 available under State or local law; and (iii) records in which
6 the 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
14 or 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 networking website in connection with civil~~
23 ~~offenses, petty offenses, business offenses, Class C~~
24 ~~misdemeanors, and Class B misdemeanors~~ unless: (1) the booking
25 photograph is posted to the social networking website to
26 assist in the search for a missing person or to assist in the

1 search for a fugitive, person of interest, or individual
2 wanted in relation to a crime other than a petty offense,
3 business offense, Class C misdemeanor, or Class B misdemeanor;
4 or (2) the person is convicted of a crime other than a petty
5 offense, business offense, Class C misdemeanor, or Class B
6 misdemeanor. As used in this subsection, "social networking
7 website" has the meaning provided in Section 10 of the Right to
8 Privacy in the Workplace Act.

9 (Source: P.A. 100-927, eff. 1-1-19; 101-433, eff. 8-20-19.)

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

12 (815 ILCS 505/2000)

13 Sec. 2000. Criminal record information.

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

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

21 (1) descriptions or notations of any arrests, any
22 formal criminal charges, and the disposition of those
23 criminal charges, including, but not limited to, any
24 information made available under Section 4a of the State

1 Records Act or Section 3b of the Local Records Act;

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

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

9 (c) A person or entity that publishes or otherwise
10 disseminates for profit a person's criminal record information
11 on a publicly available Internet website or in any other
12 publication or criminal history report that charges a fee for
13 removal or correction of the information must correct any
14 errors in the individual's criminal history information within
15 5 business days after notification of an error. Failure to
16 correct an error in the individual's criminal record
17 information constitutes an unlawful practice within the
18 meaning of this Act.

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

1 information.

2 (e) Failure by a for-profit publishing entity that
3 publishes on a publicly available Internet website or in any
4 other publication or criminal history report that charges a
5 fee for removal or correction of the information to correct
6 the person's published criminal record information within 5
7 business days after receipt of the notice, demand for
8 correction, and the provision of correct information,
9 constitutes an unlawful and deceptive practice within the
10 meaning of this Act. In addition to any other remedy available
11 under this Act, a person who has been injured by a violation of
12 this Section is entitled to the damages of \$100 per day, plus
13 attorney's fees, for the publisher's failure to correct the
14 criminal record information.

15 (e-5) It is an unlawful practice for a for-profit
16 publishing entity that publishes on a publicly available
17 Internet website or in any other publication that charges a
18 fee for removal or correction of the information to fail to
19 remove within 30 days, without the imposition of any fee, the
20 criminal record information of a person who provides the
21 entity with:

22 (1) a pardon from the Governor stating that the pardon
23 is issued on the ground of innocence of the charges
24 relating to the criminal record information;

25 (2) a certificate of innocence, issued to the person
26 under Section 2-702 of the Code of Civil Procedure,

1 finding that the person is innocent of all charges
2 relating to the criminal record information;

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

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

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

13 (f) This Section does not apply to a play, book, magazine,
14 newspaper, musical, composition, visual work, work of art,
15 audiovisual work, radio, motion picture, or television
16 program, or a dramatic, literary, or musical work.

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

20 (h) This Section does not apply to the Illinois State
21 Police.

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

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

1 (Source: P.A. 100-927, eff. 1-1-19; 101-431, eff. 1-1-20.)