



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5998

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.

LRB100 24285 HEP 43550 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 (Text of Section before amendment by P.A. 100-927)

11 Sec. 2000. Criminal record information.

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

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

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

24 (2) photographs of the person taken pursuant to an

1 arrest or other involvement in the criminal justice system;

2 or

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

7 (Source: P.A. 98-555, eff. 1-1-14.)

8 (Text of Section after amendment by P.A. 100-927)

9 Sec. 2000. Criminal record information.

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

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

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

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

25 (3) personal identifying information, including a

1 person's name, address, date of birth, photograph, and
2 social security number or other government-issued
3 identification number.

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

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

21 (e) Failure by a for-profit publishing entity that
22 publishes on a publicly available Internet website or in any
23 other publication that charges a fee for removal or correction
24 of the information to correct the person's published criminal
25 record information within 5 business days after receipt of the
26 notice, demand for correction, and the provision of correct

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

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

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

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

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

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

25 In addition to any other remedy available under this Act,
26 an entity that violates this subsection is subject to a civil

1 penalty of \$1,000 per day, plus attorney's fees. Any proceeds
2 recovered under this subsection shall be deposited into the
3 General Revenue Fund.

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

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

11 (h) This Section does not apply to the Illinois State
12 Police.

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

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

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

19 Section 95. No acceleration or delay. Where this Act makes
20 changes in a statute that is represented in this Act by text
21 that is not yet or no longer in effect (for example, a Section
22 represented by multiple versions), the use of that text does
23 not accelerate or delay the taking effect of (i) the changes
24 made by this Act or (ii) provisions derived from any other
25 Public Act.