

SB1699



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1699

Introduced 2/15/2019, by Sen. Steve Stadelman

SYNOPSIS AS INTRODUCED:

5 ILCS 140/2.15
5 ILCS 160/4a

Amends the Freedom of Information Act. Prohibits, with exceptions, a law enforcement agency from publishing booking photographs on its social networking website (instead of its social media website). Provides that "social networking website" has the meaning provided in the Right to Privacy in the Workplace Act. Adds the same restrictions to the State Records Act. Effective immediately.

LRB101 08806 HEP 53894 b

A BILL FOR

1 AN ACT concerning government.

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 publish booking photographs,
21 commonly known as "mugshots", on its social networking ~~media~~
22 website in connection with civil offenses, petty offenses,
23 business offenses, Class C misdemeanors, and Class B
24 misdemeanors unless the booking photograph is posted to the
25 social networking website ~~social media~~ to assist in the search
26 for a missing person or to assist in the search for a fugitive,

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

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

8 Section 10. The State Records Act is amended by changing
9 Section 4a as follows:

10 (5 ILCS 160/4a)

11 Sec. 4a. Arrest records and reports.

12 (a) When an individual is arrested, the following
13 information must be made available to the news media for
14 inspection and copying:

15 (1) Information that identifies the individual,
16 including the name, age, address, and photograph, when and
17 if available.

18 (2) Information detailing any charges relating to the
19 arrest.

20 (3) The time and location of the arrest.

21 (4) The name of the investigating or arresting law
22 enforcement agency.

23 (5) If the individual is incarcerated, the amount of
24 any bail or bond.

1 (6) If the individual is incarcerated, the time and
2 date that the individual was received, discharged, or
3 transferred from the arresting agency's custody.

4 (b) The information required by this Section must be made
5 available to the news media for inspection and copying as soon
6 as practicable, but in no event shall the time period exceed 72
7 hours from the arrest. The information described in paragraphs
8 (3), (4), (5), and (6) of subsection (a), however, may be
9 withheld if it is determined that disclosure would:

10 (1) interfere with pending or actually and reasonably
11 contemplated law enforcement proceedings conducted by any
12 law enforcement or correctional agency;

13 (2) endanger the life or physical safety of law
14 enforcement or correctional personnel or any other person;
15 or

16 (3) compromise the security of any correctional
17 facility.

18 (c) For the purposes of this Section, the term "news media"
19 means personnel of a newspaper or other periodical issued at
20 regular intervals whether in print or electronic format, a news
21 service whether in print or electronic format, a radio station,
22 a television station, a television network, a community antenna
23 television service, or a person or corporation engaged in
24 making news reels or other motion picture news for public
25 showing.

26 (d) Each law enforcement or correctional agency may charge

1 fees for arrest records, but in no instance may the fee exceed
2 the actual cost of copying and reproduction. The fees may not
3 include the cost of the labor used to reproduce the arrest
4 record.

5 (e) The provisions of this Section do not supersede the
6 confidentiality provisions for arrest records of the Juvenile
7 Court Act of 1987.

8 (f) All information, including photographs, made available
9 under this Section is subject to the provisions of Section 2000
10 of the Consumer Fraud and Deceptive Business Practices Act.

11 (g) Notwithstanding the requirements of subsection (a), a
12 law enforcement agency may not publish booking photographs,
13 commonly known as "mugshots", on its social networking website
14 in connection with civil offenses, petty offenses, business
15 offenses, Class C misdemeanors, and Class B misdemeanors unless
16 the booking photograph is posted to the social networking
17 website to assist in the search for a missing person or to
18 assist in the search for a fugitive, person of interest, or
19 individual wanted in relation to a crime other than a petty
20 offense, business offense, Class C misdemeanor, or Class B
21 misdemeanor. As used in this subsection, "social networking
22 website" has the meaning provided in Section 10 of the Right to
23 Privacy in the Workplace Act.

24 (Source: P.A. 98-555, eff. 1-1-14; 99-363, eff. 1-1-16.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.