



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB0027

Introduced 1/12/2023, 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. Provides that the prohibition against the production of booking photographs contained in this subsection does not apply to requests made by the news media. 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.

LRB103 03541 HEP 48547 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 (Text of Section before amendment by P.A. 101-652)

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

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

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

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

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

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

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

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

8 (Text of Section after amendment by P.A. 101-652)

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

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

25 (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. The prohibition against the
9 production of booking photographs contained in this subsection
10 does not apply to requests made by the news media, as defined
11 in subsection (f) of Section 2.

12 (Source: P.A. 100-927, eff. 1-1-19; 101-433, eff. 8-20-19;
13 101-652, eff. 1-1-23.)

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

16 (815 ILCS 505/2000)

17 Sec. 2000. Criminal record information.

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

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

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

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

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

13 (c) A person or entity that publishes or otherwise
14 disseminates for profit a person's criminal record information
15 on a publicly available Internet website or in any other
16 publication or criminal history report that charges a fee for
17 removal or correction of the information must correct any
18 errors in the individual's criminal history information within
19 5 business days after notification of an error. Failure to
20 correct an error in the individual's criminal record
21 information constitutes an unlawful practice within the
22 meaning of this Act.

23 (d) A person whose criminal record information is
24 published for profit on a publicly available Internet website
25 or in any other publication that charges a fee for removal or
26 correction of the information may demand the publisher to

1 correct the information if the subject of the information, or
2 his or her representative, sends a letter, via certified mail,
3 to the publishing entity demanding the information be
4 corrected and providing documentation of the correct
5 information.

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

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

26 (1) a pardon from the Governor stating that the pardon

1 is issued on the ground of innocence of the charges
2 relating to the criminal record information;

3 (2) a certificate of innocence, issued to the person
4 under Section 2-702 of the Code of Civil Procedure,
5 finding that the person is innocent of all charges
6 relating to the criminal record information;

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

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

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

17 (f) This Section does not apply to a play, book, magazine,
18 newspaper, musical, composition, visual work, work of art,
19 audiovisual work, radio, motion picture, or television
20 program, or a dramatic, literary, or musical work.

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

24 (h) This Section does not apply to the Illinois State
25 Police.

26 (i) This Section does not apply to a consumer reporting

1 agency as defined under 15 U.S.C. 1681a(f).

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

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

6 Section 95. No acceleration or delay. Where this Act makes
7 changes in a statute that is represented in this Act by text
8 that is not yet or no longer in effect (for example, a Section
9 represented by multiple versions), the use of that text does
10 not accelerate or delay the taking effect of (i) the changes
11 made by this Act or (ii) provisions derived from any other
12 Public Act.