

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 14-0396.01 Jerry Barry x4341

HOUSE BILL 14-1047

HOUSE SPONSORSHIP

Becker,

SENATE SPONSORSHIP

Guzman,

House Committees

Business, Labor, Economic, & Workforce Development

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING RESTRICTIONS ON THE PUBLISHING OF BASIC**
102 **IDENTIFICATION INFORMATION ON COMMERCIAL WEB SITES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

The bill requires a person who publishes booking photographs or other basic identification information on a publicly available commercial web site, upon request and without compensation, to remove the booking photograph and basic identification information of a person who is not charged, whose charges are dismissed, or who is acquitted of the charges.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
February 3, 2014

The bill authorizes a person whose booking photograph or information is not removed to file a civil action to recover any damages caused by the failure.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-72-308.3 as
3 follows:

4 **24-72-308.3. Publishing booking photographs - removal - civil**
5 **action - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
6 OTHERWISE REQUIRES:

7 (a) "BOOKING PHOTOGRAPH" MEANS A PHOTOGRAPH OR OTHER
8 IMAGE OF A PERSON TAKEN BY A CRIMINAL JUSTICE AGENCY AT THE TIME
9 THAT A PERSON IS ARRESTED OR DETAINED BY A CRIMINAL JUSTICE
10 AGENCY.

11 (b) (I) "COMMERCIAL WEB SITE" MEANS A WEB SITE THAT
12 CHARGES A FEE TO REMOVE A PERSON'S BOOKING PHOTOGRAPH OR OTHER
13 BASIC IDENTIFICATION INFORMATION FROM THE WEB SITE.

14 (II) "COMMERCIAL WEB SITE" DOES NOT INCLUDE A WEB SITE
15 OPERATED BY A PUBLISHER OF A NEWSPAPER OR PERIODICAL; WIRE
16 SERVICE; RADIO OR TELEVISION STATION OR NETWORK; NEWS OR FEATURE
17 SYNDICATE; OR CABLE TELEVISION SYSTEM.

18 (2) WITHIN THIRTY DAYS AFTER RECEIPT OF A WRITTEN REQUEST,
19 A PERSON WHO PUBLISHES A BOOKING PHOTOGRAPH OR OTHER BASIC
20 IDENTIFICATION INFORMATION OF THE REQUESTER WHO WAS ARRESTED
21 AND BOOKED IN COLORADO ON THE PERSON'S PUBLICLY AVAILABLE
22 COMMERCIAL WEB SITE SHALL REMOVE, WITHOUT FEE OR COMPENSATION,
23 THE BOOKING PHOTOGRAPH AND OTHER BASIC IDENTIFICATION
24 INFORMATION OF THE REQUESTER FROM THE PERSON'S COMMERCIAL WEB

1 SITE IF:

2 (a) THE REQUESTER WAS NOT CHARGED OR ENTERED INTO A
3 DIVERSION AGREEMENT PURSUANT TO SECTION 18-1.3-101, C.R.S., AND
4 THE STATUTE OF LIMITATIONS FOR THE OFFENSE FOR WHICH THE
5 REQUESTER WAS ARRESTED THAT HAS THE LONGEST STATUTE OF
6 LIMITATIONS HAS RUN;

7 (b) THE REQUESTER'S CASE WAS COMPLETELY DISMISSED; ■

8 (c) THE REQUESTER WAS ACQUITTED; OR

9 (d) THE REQUESTER'S CASE WAS SEALED PURSUANT TO A COURT
10 ORDER.

11 (3) THE WRITTEN NOTICE REQUIRED BY SUBSECTION (2) OF THIS
12 SECTION MUST:

13 (a) INCLUDE THE PERSON'S NAME AND DATE OF BIRTH, THE DATE
14 OF THE ARREST, AND THE NAME OF THE ARRESTING LAW ENFORCEMENT
15 AGENCY; AND

16 (b) BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO
17 THE REGISTERED AGENT, PRINCIPAL PLACE OF BUSINESS, OR THE PRINCIPAL
18 RESIDENCE OF THE PERSON WHO PUBLISHES THE COMMERCIAL WEB SITE.

19 (4) A PERSON IN INTEREST WHO IS DAMAGED BY THE FAILURE OF
20 A PERSON TO REMOVE THE PERSON IN INTEREST'S BOOKING PHOTOGRAPH
21 OR OTHER BASIC IDENTIFICATION INFORMATION AS REQUIRED BY THIS
22 SECTION MAY FILE A CIVIL ACTION TO RECOVER SUCH DAMAGES.

23 (5) A PERSON WHO PUBLISHES A BOOKING PHOTOGRAPH OR OTHER
24 BASIC IDENTIFICATION INFORMATION OF A PERSON WHO IS ARRESTED AND
25 BOOKED IN COLORADO ON THE PERSON'S PUBLICLY AVAILABLE
26 COMMERCIAL WEB SITE IS DEEMED TO BE TRANSACTING BUSINESS IN
27 COLORADO.

1 **SECTION 2. Act subject to petition - effective date -**

2 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
3 the expiration of the ninety-day period after final adjournment of the
4 general assembly (August 6, 2014, if adjournment sine die is on May 7,
5 2014); except that, if a referendum petition is filed pursuant to section 1
6 (3) of article V of the state constitution against this act or an item, section,
7 or part of this act within such period, then the act, item, section, or part
8 will not take effect unless approved by the people at the general election
9 to be held in November 2014 and, in such case, will take effect on the
10 date of the official declaration of the vote thereon by the governor.

11 (2) This act applies to requests to remove a booking photograph
12 or other basic identification information sent on or after the applicable
13 effective date of this act.