

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0396.01 Jerry Barry x4341

HOUSE BILL 14-1047

HOUSE SPONSORSHIP

Becker,

SENATE SPONSORSHIP

(None),

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/billsummaries>.)

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.

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; OR

8 (c) THE REQUESTER WAS ACQUITTED.

9 (3) THE WRITTEN NOTICE REQUIRED BY SUBSECTION (2) OF THIS
10 SECTION MUST:

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

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

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

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

26 **SECTION 2. Act subject to petition - effective date -**
27 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

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

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