

House Bill 658

By: Representatives Schofield of the 63<sup>rd</sup>, Scott of the 76<sup>th</sup>, and Davis of the 87<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 35-1-19 of the Official Code of Georgia Annotated, relating to  
2 disclosure of arrest booking photographs prohibited, so as to provide for the prohibition of  
3 certain booking photographs; to provide for a definition; to provide for related matters; to  
4 repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Code Section 35-1-19 of the Official Code of Georgia Annotated, relating to disclosure of  
8 arrest booking photographs prohibited, is amended as follows:

9 "35-1-19.

10 (a) As used in this Code section, the term:

11 (1) 'Booking ~~booking~~ photograph' means a photograph or image of an individual taken  
12 by an arresting law enforcement agency for the purpose of identification or taken when  
13 such individual was processed into a jail.

14 (2) 'Remove-for-pay publication or website' means a publication that requires the  
15 payment of a fee or other valuable consideration in order to remove or delete a booking

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16 photograph from the publication or which utilizes the publication of booking photographs  
17 for profit or to obtain advertising revenue.

18 (b) Except as provided in Code Section 50-18-77 and booking photographs required for  
19 publication as set forth in Titles 16 and 40, for the State Sexual Offender Registry, and for  
20 use by law enforcement agencies for administrative purposes, an arresting law enforcement  
21 agency or agent thereof shall not post booking photographs to or on a website.

22 (c) An arresting law enforcement agency shall not provide or make available a copy of a  
23 booking photograph in any format to a person requesting such photograph if:

24 (1) Such booking photograph may be placed in a remove-for-pay publication or posted  
25 to a website or transferred to a person to be placed in a publication or posted to a website;  
26 **and**

27 (2) Removal or deletion of such booking photograph from ~~such a~~ remove-for-pay  
28 publication or website requires the payment of a fee or other consideration; or

29 (3) The individual has not been convicted of the crime for which he or she was arrested.

30 (d)(1) A remove-for-pay publication or website shall not require payment for such  
31 removal or destruction of a booking photograph of an individual who submits a request  
32 for such removal and destruction within seven calendar days from the day that the  
33 individual makes such request if both of the following conditions exist:

34 (A) The individual in the booking photograph was acquitted of the criminal charge or  
35 not prosecuted, or the individual had the criminal charge expunged, vacated, or  
36 pardoned; and

37 (B) The individual submits, in relation to the request, evidence of a disposition  
38 described in subparagraph (A) of this subsection.

39 ~~(d)~~(e) When a person requests a booking photograph, he or she shall submit a statement  
40 affirming that the use of such photograph is in compliance with subsection (c) of this Code  
41 section. Any person who knowingly makes a false statement in requesting a booking  
42 photograph shall be guilty of a violation of Code Section 16-10-20.

43 (f) Notwithstanding the provisions of subsections (b) and (c) of this Code section, a law  
44 enforcement officer or agency shall provide a copy of a booking photograph to the  
45 individual who is the subject of the booking photograph or to the counsel of record for the  
46 individual upon request."

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**SECTION 2.**

48 All laws and parts of laws in conflict with this Act are repealed.