

2024 Regular Session

SENATE BILL NO. 24

BY SENATOR SEABAUGH

CRIMINAL RECORDS. Removes certain limitations on the release and dissemination of mug shots. (8/1/24)

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 234, relative to booking photographs; to remove certain limitations on the release and dissemination of booking photographs; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 234 is hereby amended and reenacted to read as follows:

Art. 234. Booking photographs

A. As used in this Article:

(1) "Booking photograph" means a photograph or still, non-video image of an individual generated by a law enforcement agency for identification purposes after arrest or while in the agency's custody.

(2) "Remove-for-pay publication or website" means a publication that requires the payment of a fee or other valuable consideration in order to remove or delete a booking photograph from the publication or which **primarily** utilizes the publication of booking photographs for profit or to obtain advertising revenue.

~~B. Except as provided in this Article, a law enforcement officer or agency~~

1 ~~shall not provide a copy of a booking photograph in any format to a person~~
2 ~~requesting a copy of that photograph.~~

3 ~~C.(1) No law enforcement officer or agency shall publish, release, or~~
4 ~~disseminate in any format a booking photograph to the public or to a private person~~
5 ~~or entity unless any of the following occurs:~~

6 ~~(a) The individual is a fugitive, and a law enforcement officer or agency~~
7 ~~determines that releasing or disseminating the booking photograph will assist in~~
8 ~~apprehending the individual.~~

9 ~~(b) A law enforcement officer or agency determines that the individual is an~~
10 ~~imminent threat to an individual or to public safety and determines that releasing or~~
11 ~~disseminating the booking photograph will assist in reducing or eliminating the~~
12 ~~threat.~~

13 ~~(c) A judge of a court of competent jurisdiction orders the release or~~
14 ~~dissemination of the booking photograph based on a finding that the release or~~
15 ~~dissemination is in furtherance of a legitimate interest.~~

16 ~~(d) The individual is convicted of or pleads guilty or nolo contendere to a~~
17 ~~crime, lesser crime, or lesser included offense as defined in Article 558 in response~~
18 ~~to the same crime for which he was arrested or if there is criminal litigation related~~
19 ~~to the same crime that is pending or reasonably anticipated.~~

20 ~~(e) The individual is charged with a crime of violence as defined in R.S.~~
21 ~~14:2(B), except stalking, or charged with any of the following offenses:~~

22 ~~(i) Sex offenses as defined in R.S. 15:541.~~

23 ~~(ii) Human trafficking offenses as defined in R.S. 14:46.2 and 46.3.~~

24 ~~(iii) Offenses affecting the health and morals of minors, R.S. 14:91 et seq.~~

25 ~~(iv) Offenses affecting the health and safety of persons with infirmities,~~
26 ~~R.S.14:93.3 et seq.~~

27 ~~(v) Video voyeurism.~~

28 ~~(vi) Cruelty to animals.~~

29 ~~(vii) Dogfighting.~~

1 ~~(f) The individual is released on a bail undertaking and the law enforcement~~
2 ~~officer or agency is requested to release or disseminate the booking photograph to~~
3 ~~the individual's surety agent.~~

4 ~~(g) A law enforcement officer or agency determines that releasing or~~
5 ~~disseminating the booking photograph is necessary for investigative purposes.~~

6 ~~(2) Notwithstanding the provisions of Subparagraph (1) of this Paragraph, a~~
7 ~~law enforcement officer or agency shall provide a copy of a booking photograph to~~
8 ~~the individual who is the subject of the booking photograph or to the counsel of~~
9 ~~record for the individual upon request.~~

10 ~~(3) A booking photograph published, released, or disseminated by a law~~
11 ~~enforcement officer or agency, except after the subject of the booking photograph~~
12 ~~being found guilty or pleading guilty or nolo contendere as provided in~~
13 ~~Subsubparagraph (1)(d) of this Paragraph, shall include a disclaimer that states "all~~
14 ~~persons are presumed innocent until proven guilty".~~

15 ~~(4) No law enforcement agency or employee thereof shall be subject to civil~~
16 ~~action or be held liable when the publication, release, or dissemination was made by~~
17 ~~mistake of fact or error, or was inadvertent and made in good faith.~~

18 ~~D. The publication of a booking photograph of a Louisiana resident~~
19 ~~constitutes minimum contact with the state and by doing so, the party shall be subject~~
20 ~~to the jurisdiction of Louisiana courts.~~

21 ~~E. **B.**(1) A remove-for-pay publication or website shall remove and destroy~~
22 ~~a booking photograph of an individual who submits a request for removal and~~
23 ~~destruction within seven calendar days from the day that the individual makes the~~
24 ~~request if both of the following conditions exist:~~

25 ~~(a) The individual in the booking photograph was acquitted of the criminal~~
26 ~~charge or not prosecuted, or the individual had the criminal charge expunged,~~
27 ~~vacated, or pardoned.~~

28 ~~(b) The individual submits, in relation to the request, evidence of a~~
29 ~~disposition described in Subsubparagraph (a) of this Subparagraph.~~

1 (2)(a) A remove-for-pay publication or website shall not require payment for
2 removal or destruction of the booking photograph.

3 (b) Any remove-for-pay publication or website that seeks any fee or other
4 valuable consideration for the removal or destruction of a booking photograph shall
5 be subject to prosecution under R.S. 14:66.

6 (3) If the remove-for-pay publication or website does not remove and destroy
7 the booking photograph, the remove-for-pay publication or website shall be liable
8 for all costs, including reasonable attorney fees, resulting from any legal action that
9 the individual brings in relation to the failure of the remove-for-pay publication or
10 remove-for-pay website to remove and destroy the booking photograph.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Jonathon Wagner.

DIGEST

SB 24 Reengrossed

2024 Regular Session

Seabaugh

Present law defines "booking photograph" and "remove-for-pay publication or website" for purposes of present law.

Proposed law provides that the definition of "remove-for-pay-publication or website" also includes publications that primarily utilizes the publication of booking photographs for profit or to obtain advertising revenue.

Present law prohibits a law enforcement officer or agency from providing a copy of a booking photograph to any person requesting a copy of that photograph. Present law further provides that no law enforcement officer or agency can publish, release, or disseminate a booking photograph to the public or to a private person or entity except under certain circumstances, including to assist in the apprehension of a fugitive, a court orders the release, or the individual pictured is charged with certain offenses, including certain crimes of violence, sex offenses, or human trafficking.

Present law provides that a law enforcement officer or agency is to provide a copy of a booking photograph to the individual who is the subject of the booking photograph or to the counsel of record for the individual upon request.

Present law provides that a booking photograph published, released, or disseminated by a law enforcement officer or agency, except after the subject of the booking photograph being found guilty or pleading guilty or nolo contendere, must include a disclaimer that states "all persons are presumed innocent until proven guilty".

Present law provides that no law enforcement agency or employee is subject to civil action or liability when the publication, release, or dissemination was made by mistake of fact or error, or was inadvertent and made in good faith.

Proposed law repeals present law prohibitions applying to the release of booking photographs by law enforcement officers and law enforcement agencies. Proposed law also repeals present law relative to certain booking photograph release requirements imposed on

law enforcement officers and law enforcement agencies.

Present law provides that publishing the booking photograph of a La. resident constitutes sufficient minimum contact with the state to confer personal jurisdiction over the publisher in La. courts.

Proposed law repeals present law provision providing that publishing the booking photograph of a La. resident constitutes sufficient minimum contact with the state to confer personal jurisdiction over the publisher in La. courts.

Proposed law otherwise retains present law.

Effective August 1, 2024.

(Amends C.Cr.P. Art 234)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Include in the definition of "remove-for-pay publication or website" publications that primarily utilize the publication of booking photographs for profit or to obtain advertising revenue.
2. Delete parts of present law prohibiting law enforcement officers and law enforcement agencies from releasing booking photographs.
3. Delete parts of present law requiring law enforcement officers and law enforcement agencies to add certain information to certain booking photographs prior to release.
4. Delete present law provision establishing minimum contacts with the state sufficient to confer personal jurisdiction in La. courts over persons that publish a booking photograph of a La. resident.