

SENATE BILL NO. 24

BY SENATOR SEABAUGH AND REPRESENTATIVES BACALA, FONTENOT,
ROMERO, SCHAMERHORN AND THOMPSON

1 AN ACT

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

5 Be it enacted by the Legislature of Louisiana:

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

8 Art. 234. Booking photographs

9 A. As used in this Article:

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

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

17 ~~B. Except as provided in this Article, a law enforcement officer or agency~~
18 ~~shall not provide a copy of a booking photograph in any format to a person~~
19 ~~requesting a copy of that photograph.~~

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

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

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

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

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

15 ~~(e) The individual is charged with a crime of violence as defined in R.S.~~
16 ~~14:2(B), except stalking, or charged with any of the following offenses:~~

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

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

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

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

22 ~~(v) Video voyeurism.~~

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

24 ~~(vii) Dogfighting.~~

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

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

30 ~~(2) Notwithstanding the provisions of Subparagraph (1) of this Paragraph, a~~

1 law enforcement officer or agency shall provide a copy of a booking photograph to
2 the individual who is the subject of the booking photograph or to the counsel of
3 record for the individual upon request.

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

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

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

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

19 (a) The individual in the booking photograph was acquitted of the criminal
20 charge or not prosecuted, or the individual had the criminal charge expunged,
21 vacated, or pardoned.

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

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

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

29 (3) If the remove-for-pay publication or website does not remove and destroy
30 the booking photograph, the remove-for-pay publication or website shall be liable

1 for all costs, including reasonable attorney fees, resulting from any legal action that
2 the individual brings in relation to the failure of the remove-for-pay publication or
3 remove-for-pay website to remove and destroy the booking photograph.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____