

Senator Daniel W. Thatcher proposes the following substitute bill:

BOOKING PHOTOGRAPHS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill imposes booking photograph removal and destruction requirements on certain publications and websites that publish and post booking photographs.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a certain publication or website to remove and destroy a booking photograph when the individual in the booking photograph requests removal and destruction within certain time periods;
- ▶ prohibits a certain publication or website from:
 - conditioning removal and destruction of a booking photograph on the payment of a fee depending on the disposition of the related criminal charge; or
 - conditioning removal and destruction of a booking photograph on the payment of a fee above a certain amount in certain circumstances; ~~§~~ → **and** ← ~~§~~
- ▶ for a booking photograph publication or website that does not comply with a requirement to remove and destroy a booking photograph:
 - allows for the imposition of a civil penalty; ~~§~~ → **and** ← ~~§~~
 - provides for liability for certain legal costs; and



26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **17-22-30**, as enacted by Laws of Utah 2013, Chapter 404



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **17-22-30** is amended to read:

37 **17-22-30. Prohibition on providing copy of booking photograph -- Statement**
38 **required -- Criminal liability for false statement -- Remedy for failure to remove or**
39 **delete.**

40 (1) As used in this section[;]:

41 (a) [~~"booking"~~] "Booking photograph" means a photograph or image of an individual
42 that is generated:

43 ~~Ŝ~~→ [(a)] (i) ←Ŝ for identification purposes; and

44 ~~Ŝ~~→ [(b)] (ii) ←Ŝ when the individual is booked into a county jail.

45 (b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or
46 website that requires the payment of a fee or other consideration in order to remove or delete a
47 booking photograph from the publication or website.

48 (2) A sheriff may not provide a copy of a booking photograph in any format to a person
49 requesting a copy of the booking photograph if[;(a)] the booking photograph will be placed in
50 a publish-for-pay publication or posted to a publish-for-pay website[; and].

51 [(b) removal of the booking photograph from the publication or website requires the
52 payment of a fee or other consideration.]

53 (3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at
54 the time of making the request, submit a statement signed by the person affirming that the
55 booking photograph will not be placed in a publish-for-pay publication or posted to a
56 publish-for-pay website [that requires the payment of a fee or other consideration in order to

57 ~~remove or delete the booking photograph from the publication or website].~~

58 (b) A person who submits a false statement under Subsection (3)(a) is subject to
59 criminal liability as provided in Section [76-8-504](#).

60 (4) (a) Except as provided in Subsection (5), a publish-for-pay publication or a
61 publish-for-pay website shall remove and destroy a booking photograph of an individual who
62 submits a request for removal and destruction within 30 calendar days after the day on which
63 the individual makes the request.

64 (b) A publish-for-pay publication or publish-for-pay website described in Subsection
65 (4)(a) may not condition removal or destruction of the booking photograph on the payment of a
66 fee in an amount greater than \$50.

67 (c) If the publish-for-pay publication or publish-for-pay website described in
68 Subsection (4)(a) does not remove and destroy the booking photograph in accordance with
69 Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

70 (i) all costs, including reasonable attorney fees, resulting from any legal action the
71 individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay
72 website to remove and destroy the booking ~~photo~~ **photograph** ; and

73 (ii) a civil penalty of \$50 per day for each day after the 30-day deadline described in
74 Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the
75 publish-for-pay publication or on the publish-for-pay website.

76 (5) (a) A publish-for-pay publication or a publish-for-pay website shall remove and
77 destroy a booking photograph of an individual who submits a request for removal and
78 destruction within seven calendar days after the day on which the individual makes the request
79 if:

80 (i) the booking photograph relates to a criminal charge:

81 (A) on which the individual was acquitted or not prosecuted; or

82 (B) that was expunged, vacated, or pardoned; and

83 (ii) the individual submits, in relation to the request, evidence of a disposition
84 described in Subsection (5)(a)(i).

85 (b) If the publish-for-pay publication or publish-for-pay website described in
86 Subsection (5)(a) does not remove and destroy the booking photograph in accordance with
87 Subsection (5)(a), the publish-for-pay publication or publish-for-pay website is liable for:

88 (i) all costs, including reasonable attorney fees, resulting from any legal action that the
89 individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay
90 website to remove and destroy the booking ~~photo~~ photograph ; and

91 (ii) a civil penalty of \$100 per day for each day after the seven-day deadline described
92 in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the
93 publish-for-pay publication or on the publish-for-pay website.

94 (c) An act of a publish-for-pay publication or publish-for-pay website described in
95 Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on
96 the payment of any fee or amount constitutes theft by extortion under Section [76-6-406](#).