

HOUSE RESEARCH

Bill Summary

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Overview

This bill regulates the disclosure and publication of booking photographs. It requires disclosure of certain information from persons requesting copies of booking photographs from a law enforcement agency and establishes standards for publication of the photographs.

Section

1 Booking photographs. Regulates access to, and dissemination of, booking photographs under the Data Practices Act.

Paragraph (c) restricts public access to copies of a booking photograph maintained by a law enforcement agency, unless the requestor submits the following data to the agency:

- (1) the legal name and address of the requestor, and if requesting on behalf of a business, specified information about the business;
- (2) a statement of the purpose of the request and the manner in which the photograph is intended to be used; and
- (3) if the photograph will be published, a list of all locations and formats of publication, including Web site addresses.

Paragraph (d) provides that supplemental disclosures are required if a booking photograph will be published in a manner or format not originally disclosed. A recipient of a booking photograph through a private sale or transfer must also file disclosures as required by this section.

Section

Paragraph (e) cross references a penalty provided in section 2 of the bill, for violations of the disclosure and dissemination requirements contained in this section.

Paragraph (f) exempts transfer of a booking photograph to certain law enforcement, judicial, and other government entities, including an attorney representing the subject of the photograph in an active criminal proceeding, from the disclosure requirements of this section.

2 **Arrest data.** Regulates the use of booking photographs within the chapter of statute governing trade practices.

Subd. 1. Definitions. Defines terms used in this section.

Subd. 2. Prohibition on payment. Prohibits a person from publishing a booking photograph to a Web site or other publication, if payment of a fee or other consideration is required to have the photograph removed.

Subd. 3. Removal or deletion. Requires a person receiving a booking photograph to post a notice on their Web site or publication describing the method or process for removal of the photograph.

Upon receipt of a request to remove a booking photograph from a Web site or publication, the person maintaining the site or publication must investigate whether the subject of the photograph was convicted of a crime in connection with the arrest. Where possible, the subject of the photograph must provide the Web site or publication with proof, if there was no conviction. If the subject of the photograph was not convicted of a crime, the photograph must be deleted from the publication immediately. If the subject was convicted, the subject may request that the Web site or publication list only the subject's first name, last initial, and crime.

After investigation and determination that the subject of a booking photograph was not convicted of a crime, the person is prohibited from further posting the same photograph to any other Web site or publication it maintains.

Subd. 4. Liability. (a) A person maintaining a Web site or publication in violation of this section is liable to the subject of the booking photograph, up to \$500 per photograph.

(b) Failure to remove or delete a photograph within 30 days, or failure to limit the information provided as required under subdivision 3, entitles the subject of the photograph to treble damages.

(c) Failure to comply with the data practices agreement required in section 1 of the bill results in treble damages.