

JAN 19 2024

A BILL FOR AN ACT

RELATING TO ARREST PHOTOGRAPHS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that booking or arrest
2 photographs, also called mugshots, can be obtained from law
3 enforcement websites and reposted on commercial websites. While
4 some websites will usually remove the photographs without
5 charging a fee if the charges were dropped or the person was
6 found to be not guilty, other websites charge a fee for their
7 removal. The legislature also finds that once posted on the
8 Internet, the photographs can be copied and shared by other
9 sites and are extremely difficult to eradicate.

10 The legislature further finds that a number of states have
11 laws prohibiting the use of booking or arrest photographs for
12 commercial purposes or prohibiting the websites from charging
13 fees or gaining revenue related to the photographs. The
14 legislature also notes that several credit card companies have
15 reportedly cut ties with mugshot websites and a search engine
16 has changed its algorithms so that the websites do not result as
17 often.



1 Accordingly, the purpose of this Act is to prohibit
2 commercial website operators from publishing mugshots.

3 SECTION 2. Chapter 481B, Hawaii Revised Statutes, is
4 amended by adding a new section to part I to be appropriately
5 designated and to read as follows:

6 "§481B- Restrictions on publication of mugshots on a
7 commercial website. (a) A mugshot website operator who
8 publishes mugshots for a commercial purpose on a publicly
9 accessible website shall be deemed to be transacting business in
10 the State.

11 (b) A mugshot website operator shall not use a mugshot for
12 the purpose of soliciting business for pecuniary gain, including
13 requiring the payment of a fee or other valuable consideration
14 in exchange for removing a mugshot that has been published on a
15 website or other publication.

16 (c) An individual whose mugshot is published in violation
17 of subsection (b) and who suffers a pecuniary loss or is
18 otherwise adversely affected as a result of the violation shall
19 have a cause of action against the person responsible for the
20 violation and may recover damages in addition to the damages



1 prescribed in subsection (d) in any court of competent
2 jurisdiction.

3 (d) A person who violates subsection (b) shall be liable
4 for damages for each separate violation in an amount of at
5 least:

6 (1) \$100 per day during the first thirty days of the
7 violation;

8 (2) \$200 per day during the subsequent thirty days of the
9 violation; and

10 (3) \$500 per day for each day thereafter.

11 (e) This section shall not apply to:

12 (1) Any act performed for the purpose of disseminating
13 news to the public, including the gathering,
14 publishing, or broadcasting of information to the
15 public for a news-related purpose, or to any act
16 performed by a publisher, owner, agent, employee, or
17 retailer of a newspaper, radio network, television
18 station, television broadcast network, cable
19 television network, or other online news outlet
20 associated with any news organization in connection
21 with the dissemination of news to the public,



1 including the gathering, publishing, or broadcasting
2 of information to the public for a news-related
3 purpose;

4 (2) Activities by a licensed attorney, private
5 investigator, or registered process server that are
6 associated with purposes relating to a current or
7 anticipated criminal or civil proceeding; or

8 (3) The conduct of trials or the discovery process in any
9 proceeding as otherwise provided by law or court rule.

10 (f) For the purposes of this section:

11 "Mugshot" means a photograph of an individual's face that
12 is taken pursuant to an arrest or other involvement in the
13 criminal justice system.

14 "Mugshot website operator" means a person that publishes
15 mugshots on a publicly available internet website for a
16 commercial purpose.

17 "Person" includes an individual, partnership, firm,
18 association, corporation, or other legal entity."

19 SECTION 3. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 4. New statutory material is underscored.

2 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *Karl Rhoad*



S.B. NO. 2631

Report Title:

Arrest Photographs; Mugshots; Commercial Websites; Restriction

Description:

Prohibits commercial website operators from publishing mugshots.
Establishes exemptions.

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