

1 HB8
2 164065-1
3 By Representative England
4 RFD: Judiciary
5 First Read: 03-MAR-15
6 PFD: 01/15/2015

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8 SYNOPSIS: This bill would require the operator of a
9 website containing an arrest photograph and
10 personal information of a person charged with a
11 crime to remove, at no charge, the photograph and
12 information within a specified period after notice
13 that the person was acquitted, the charges were
14 dropped, or the charges were otherwise resolved
15 without conviction.

16 This bill would also provide that the
17 failure to remove the photograph and personal
18 information upon request is a deceptive trade
19 practice and that an aggrieved individual is
20 entitled to all rights and remedies under the
21 Deceptive Trade Practices Act.

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23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 To require the operator of a website publishing an
2 arrest photograph of an individual to remove the photograph
3 and personal information within a specified period upon notice
4 of acquittal or other resolution of the charges without a
5 conviction; to provide that failure to remove a photograph and
6 information is a deceptive trade practice; and to provide
7 remedies for violations.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. (a) For the purposes of this section, the
10 following terms shall have the following meanings:

11 (1) PHOTOGRAPH. A photograph of a subject individual
12 that was taken in this state by an arresting law enforcement
13 agency.

14 (2) SUBJECT INDIVIDUAL. An individual who was
15 arrested and had his or her photograph taken and the
16 individual was acquitted by a judge or jury of the charges
17 related to the arrest or the charges were dropped or otherwise
18 resolved without a conviction.

19 (b) (1) Any person who is engaged in any activity
20 involving or using a computer or computer network who
21 publishes on the person's publicly available website a subject
22 individual's arrest booking photograph for purposes of
23 commerce shall be deemed to be transacting business in this
24 state.

25 (2) Within 30 days of the sending of a written
26 request by a subject individual, including his or her name,
27 date of birth, date of arrest, and the name of the arresting

1 law enforcement agency, the person shall, without fee or
2 compensation, remove from such person's website the subject
3 individual's arrest booking photograph and any other personal
4 information. A written request shall be transmitted via
5 certified mail, return receipt requested, or statutory
6 overnight delivery, to the registered agent, principal place
7 of business, or primary residence of the person who published
8 the website.

9 (3) Failure of a person to comply with this section
10 is unlawful and shall be deemed a deceptive trade practice
11 under Chapter 19, Title 8, Code of Alabama 1975. A subject
12 individual aggrieved by a violation of this section is
13 entitled to all remedies, including civil penalties, under
14 Chapter 19, Title 8, Code of Alabama 1975.

15 Section 2. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.