

Removal of Arrest Booking Photographs

The Act allows anyone arrested in Georgia limited ability to request removal of their mugshot from commercial websites without a fee. The Act states that in certain cases, such photos must be removed within 30 days, free of charge when a written request is made and sent by certified mail, return receipt requested or by statutory overnight mail to the registered agent or principal place of business of the web site.

Submitted as:

Georgia

[HB 150](#)

Status: Signed into law on May 6, 2014.

Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Fair Business Practices Act, related to prohibited telemarketing, Internet activities,*
2 *or home repair.*]
3 (1) As used in this subsection, the term:
4 (A) “Photograph” means a photograph of a subject individual that was taken in this state by
5 an arresting law enforcement agency.
6 (B) “Subject individual” means an individual who was arrested and had his or her photograph
7 taken and:
8 (i) Access to his or her case or charges was restricted pursuant to [*Review of*
9 *individual's criminal history record information; definitions; privacy*
10 *considerations; written application requesting review; inspection*];
11 (ii) Prior to indictment, accusation, or other charging instrument, his or her case was
12 never referred for further prosecution to the proper prosecuting attorney by the
13 arresting law enforcement agency and the offense against such individual was
14 closed by the arresting law enforcement agency;
15 (iii) Prior to indictment, accusation, or other charging instrument, the statute of
16 limitations expired;
17 (iv) Prior to indictment, accusation, or other charging instrument, his or her case was
18 referred to the prosecuting attorney but was later dismissed;
19 (v) Prior to indictment, accusation, or other charging instrument, the grand jury
20 returned two no bills;
21 (vi) After indictment or accusation, all charges were dismissed or nolle prossed;
22 (vii) After indictment or accusation, the individual pleaded guilty to or was found
23 guilty of possession of a narcotic drug, marijuana, or stimulant, depressant, or
24 hallucinogenic drug and was sentenced in accordance with the provisions of
25 [*Conditional discharge for possession of controlled substances as first offense*
26 *and certain nonviolent property crimes; dismissal of charges; restitution to*
27 *victims*], and the individual successfully completed the terms and conditions of his
28 or her probation; or
29 (viii) The individual was acquitted of all of the charges by a judge or jury.

1 (2) Any person who is engaged in any activity involving or using a computer or computer
2 network who publishes on such person's publicly available website a subject individual's
3 arrest booking photograph for purposes of commerce shall be deemed to be transacting
4 business in this state. Within 30 days of the sending of a written request by a subject
5 individual, including his or her name, date of birth, date of arrest, and the name of the
6 arresting law enforcement agency, such person shall, without fee or compensation, remove
7 from such person's website the subject individual's arrest booking photograph. Such written
8 request shall be transmitted via certified mail, return receipt requested, or statutory overnight
9 delivery, to the registered agent, principal place of business, or primary residence of the
10 person who published the website. Without otherwise limiting the definition of unfair and
11 deceptive acts or practices under this part, a failure to comply with this paragraph shall be
12 unlawful."
13

14 Section 2. [*Act exempt from part.*]

15 (1) Acts done by the publisher, owner, agent, or employee of a newspaper, periodical, or radio
16 station or network, or television station or network in the publication or dissemination in
17 print or electronically of:
18 (A) News or commentary; or
19 (B) An advertisement of or for another person, when the publisher, owner, agent, or
20 employee did not have actual knowledge of the false, misleading, or deceptive character
21 of the advertisement, did not prepare the advertisement, or did not have a direct financial
22 interest in the sale or distribution of the advertised product or service.