

AMENDED IN SENATE MARCH 28, 2014

**SENATE BILL**

**No. 1027**

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**Introduced by Senator Hill**

February 14, 2014

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An act to add Title 1.18.27 (commencing with Section 1798.91.1) to Article 12 of Chapter 1 of Part 4 of Division 3 of the Civil Code, relating to personal data.

LEGISLATIVE COUNSEL'S DIGEST

SB 1027, as amended, Hill. ~~Criminal record information: Booking photographs:~~ commercial use.

The California Public Records Act requires public records to be open to inspection at all times during the office hours of the state or local agency that retains those records, and provides that every person has a right to inspect any public record, except as provided.

Existing law requires a business to take reasonable steps to protect unintended disclosure of customer information and limits the way personal information on customers can be used and disseminated.

This bill would prohibit a person who publishes ~~criminal record information~~, a *booking photograph*, as defined, via print or electronic means from soliciting or accepting a fee or other consideration to remove, correct, or modify that ~~information~~, *photograph*, as specified. The bill would ~~establish civil penalties for violations of these provisions. authorize a person aggrieved by a violation of these provisions to bring a civil suit to recover the greater of actual damages or a \$1,000 penalty for each violation, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Title 1.18.27 (commencing with Section  
2 1798.91.1) is added to Article 12 of Chapter 1 of Part 4 of Division  
3 3 of the Civil Code, to read:

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5 TITLE 1.18.27. COMMERCIAL USE OF BOOKING-~~PHOTOS~~  
6 *PHOTOGRAPHS*

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8 ~~1798.91.1. (a) It shall be unlawful practice for any person~~  
9 ~~engaged in publishing or otherwise disseminating criminal record~~  
10 ~~information through a print or electronic medium to solicit or~~  
11 ~~accept the payment of a fee or other consideration to remove,~~  
12 ~~correct, or modify that criminal record information.~~

13 ~~(b) For the purposes of this section, “criminal record~~  
14 ~~information” includes all of the following:~~

15 ~~(1) Descriptions or notations of any arrests, any formal criminal~~  
16 ~~charges, and the disposition of those criminal charges, including,~~  
17 ~~but not limited to, any information made available under the~~  
18 ~~California Public Records Act.~~

19 ~~(2) Photographs of the person taken pursuant to an arrest or~~  
20 ~~other involvement in the criminal justice system.~~

21 ~~(3) Personal identifying information obtained in connection~~  
22 ~~with an arrest, including a person’s name, address, date of birth,~~  
23 ~~photograph, and social security number or other government-issued~~  
24 ~~identification number.~~

25 ~~(e) Each payment solicited or accepted in violation of these~~  
26 ~~provisions constitutes a separate violation.~~

27 ~~(d) A civil penalty of up to one thousand dollars (\$1,000) may~~  
28 ~~be imposed for each violation of this section.~~

29 *1798.91.1. (a) For the purposes of this section, the following*  
30 *definitions shall apply:*

31 *(1) “Booking photograph” means a photograph of a subject*  
32 *individual taken pursuant to an arrest or other involvement in the*  
33 *criminal justice system.*

34 *(2) “Subject individual” means an individual who was arrested*  
35 *and had his or her booking photograph taken.*

36 *(b) It shall be unlawful practice for any person engaged in*  
37 *publishing or otherwise disseminating a booking photograph*  
38 *through a print or electronic medium to solicit or accept the*

1 *payment of a fee or other consideration to remove, correct, or*  
2 *modify that booking photograph.*

3 *(c) Notwithstanding subdivision (b), a public entity may charge*  
4 *or collect a fee to correct, modify, or remove a booking*  
5 *photograph.*

6 *(d) Each payment solicited or accepted in violation of these*  
7 *provisions constitutes a separate violation.*

8 *(e) In addition to any other sanctions, penalties, or remedies*  
9 *provided by law, a subject individual may bring a civil action in*  
10 *any court of competent jurisdiction against any person in violation*  
11 *of this section for damages in an amount equal to the greater of*  
12 *one thousand dollars (\$1,000) per violation or the actual damages*  
13 *suffered by him or her as a result, along with costs, reasonable*  
14 *attorney's fees, and any other legal or equitable relief.*

15 *(f) The jurisdiction of a civil action brought pursuant to*  
16 *subdivision (e) shall also include the county in which the subject*  
17 *individual resides at the time of the violation of this section.*