

AMENDED IN ASSEMBLY JUNE 24, 2014

AMENDED IN ASSEMBLY JUNE 4, 2014

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE MARCH 28, 2014

SENATE BILL

No. 1027

**Introduced by Senator Hill
(Coauthor: Senator Leno)**

February 14, 2014

An act to add Title 1.81.27 (commencing with Section 1798.91.1) to Part 4 of Division 3 of the Civil Code, relating to personal data.

LEGISLATIVE COUNSEL'S DIGEST

SB 1027, as amended, Hill. 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, as defined, who publishes a booking photograph, as defined, via print or electronic means from ~~soliciting~~ *soliciting, requiring*, or accepting a fee or other consideration from a subject individual, as defined, to remove, correct, ~~or modify~~ *modify*, or *to refrain from publishing or otherwise disseminating* that photograph, as specified. The bill would authorize a subject individual who is 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 1.81.27 (commencing with Section
2 1798.91.1) is added to Part 4 of Division 3 of the Civil Code, to
3 read:

4
5 TITLE 1.81.27. COMMERCIAL USE OF BOOKING
6 PHOTOGRAPHS
7

8 1798.91.1. (a) For the purposes of this section, the following
9 definitions shall apply:

10 (1) "Booking photograph" means a photograph of a subject
11 individual taken pursuant to an arrest or other involvement in the
12 criminal justice system.

13 (2) "Subject individual" means an individual who was ~~arrested~~
14 ~~and had his or her booking photograph taken.~~ *arrested.*

15 (3) "Person" means a natural person, partnership, joint venture,
16 corporation, limited liability company, or other entity.

17 (4) "Public entity" means the state, county, city, special district,
18 or other political subdivision therein.

19 (b) It shall be unlawful practice for any person engaged in
20 publishing or otherwise disseminating a booking photograph
21 through a print or electronic medium to ~~solicit~~ *solicit, require,* or
22 accept the payment of a fee or other consideration from a subject
23 individual to remove, correct, ~~or modify~~ *modify, or to refrain from*
24 *publishing or otherwise disseminating* that booking photograph.

25 (c) Notwithstanding subdivision (b), a public entity may ~~charge~~
26 ~~or collect a~~ *require and accept a reasonable administrative* fee to
27 ~~correct, modify, or remove~~ *correct* a booking photograph.

28 (d) Each payment solicited or accepted in violation of these
29 provisions constitutes a separate violation.

30 (e) In addition to any other sanctions, penalties, or remedies
31 provided by law, a subject individual may bring a civil action in
32 any court of competent jurisdiction against any person in violation
33 of this section for damages in an amount equal to the greater of

1 one thousand dollars (\$1,000) per violation or the actual damages
2 suffered by him or her as a result, along with costs, reasonable
3 attorney's fees, and any other legal or equitable relief.

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

O