

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: S12 Name of Bill: An act relating to the charging of fees for removing booking photographs from the Internet

Agency/Dept: DPS/VCIC Author of Bill Review: Jeffrey Wallin

Date of Bill Review: 1/22/2015 Related Bills and Key Players: _____

Status of Bill: (check one)

☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies

Recommended Position:

☐ Support ☐ Oppose ☐ Remain Neutral ☒ Support with modifications identified in # 8 below

Analysis of Bill

1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*
This bill proposes to prohibit the charging of fees to remove (etc.) booking photographs from publically available commercial (non law-enforcement) 'criminal history' websites. It is not clear, however, if this bill intends to provide redress for individuals to have their photos removed or simply prohibit these websites to charge for the function.
2. **Is there a need for this bill?** *Please explain why or why not.*
There have been several instances brought to our attention where 1) individuals have arrest information (including mug shots) posted online by law enforcement or newspapers of record 2) this information is then captured by commercial non-law enforcement 'criminal history' websites and made available for a fee and 3) after the individual in question is not charged or found guilty of the offense the commercial website attempts to charge a fee to the individual to remove the record. VCIC has received several requests to assist individuals with removing photos of this nature but as the information is not housed on state systems there is little action we can take.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**
None anticipated, VCIC does not publish information of this nature.
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**
A question might arise for state law enforcement agencies that post bulletins of this nature (including arrest reports and mugshots). Would the proposed language require them to remove similar information or photographs upon request?
5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*
A significant question is raised with regards to newspapers and other online publications that post arrest / booking information (including photos) that do not operate as quasi-criminal history repositories. Would a newspaper (such as the Burlington Free Press) be required to remove a photo from an arrest bulletin or previously published story if requested by the individual identified? What if they did not charge but simply refused?
6. **Other Stakeholders:**

6.1 Who else is likely to support the proposal and why?

Individuals affected, privacy advocates

6.2 Who else is likely to oppose the proposal and why?

Journalism outlets, private investigators/security concerns, commercial 'criminal history' websites

7. Rationale for recommendation: *Justify recommendation stated above.*

Given the issue of lack of accountability for third-party 'criminal history' websites some sort of regulation or recourse for affected individuals seems appropriate (as VCIC has no ability to affect the websites in question). However, there is a question of efficacy of the bill as any sites currently based out of Vermont would likely relocate and then any issue would become an interstate jurisdictional question.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

In order to maximize efficacy adding 13 V.S.A. chapter 167 to proposed § 4191(a) would also allow the bill to apply to sex offender registry photographs (which is an area that has seen similar problems arise from in the past and not covered under 20 V.S.A. chapter 117). Additionally language could be added to clarify if this applies to all publically available websites, including those who do not charge to remove photographs and refuse to do so.

9. Gubernatorial appointments to board or commission?

Secretary/Commissioner has reviewed this document



Date: 02/17/15