

House Engrossed

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HOUSE BILL 2191

AN ACT

AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 37;
RELATING TO MUGSHOT WEBSITE OPERATORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 44, Arizona Revised Statutes, is amended by adding
3 chapter 37, to read:

4 CHAPTER 37

5 MUGSHOT WEBSITE OPERATORS

6 ARTICLE 1. GENERAL PROVISIONS

7 44-7901. Definitions

8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "BOOKING PHOTOGRAPH" MEANS A PHOTOGRAPH OF A SUBJECT INDIVIDUAL
10 THAT IS TAKEN PURSUANT TO AN ARREST OR OTHER INVOLVEMENT IN THE CRIMINAL
11 JUSTICE SYSTEM.

12 2. "COMMERCIAL PURPOSE" HAS THE SAME MEANING PRESCRIBED IN SECTION
13 39-121.03.

14 3. "CRIMINAL JUSTICE RECORD" INCLUDES A BOOKING PHOTOGRAPH AND THE
15 NAME, ADDRESS AND DESCRIPTION OF AND THE CHARGES FILED AGAINST A SUBJECT
16 INDIVIDUAL.

17 4. "MUGSHOT WEBSITE OPERATOR" MEANS A PERSON THAT PUBLISHES A
18 CRIMINAL JUSTICE RECORD ON A PUBLICLY AVAILABLE INTERNET WEBSITE FOR A
19 COMMERCIAL PURPOSE.

20 5. "PERSON" MEANS A NATURAL PERSON, PARTNERSHIP, ASSOCIATION, JOINT
21 VENTURE, CORPORATION, LIMITED LIABILITY COMPANY, NONPROFIT ORGANIZATION OR
22 TRUST OR ANY SIMILAR ENTITY OR ORGANIZED GROUP OF PERSONS.

23 6. "SUBJECT INDIVIDUAL" MEANS AN INDIVIDUAL WHO HAS BEEN ARRESTED.

24 44-7902. Mugshot website operators: prohibited acts:
25 exceptions

26 A. A MUGSHOT WEBSITE OPERATOR THAT PUBLISHES A SUBJECT INDIVIDUAL'S
27 CRIMINAL JUSTICE RECORD FOR A COMMERCIAL PURPOSE ON A PUBLICLY ACCESSIBLE
28 WEBSITE IS DEEMED TO BE TRANSACTING BUSINESS IN THIS STATE.

29 B. A MUGSHOT WEBSITE OPERATOR MAY NOT USE CRIMINAL JUSTICE RECORDS
30 OR THE NAMES, ADDRESSES, TELEPHONE NUMBERS AND OTHER INFORMATION CONTAINED
31 IN CRIMINAL JUSTICE RECORDS FOR THE PURPOSE OF SOLICITING BUSINESS FOR
32 PECUNIARY GAIN, INCLUDING REQUIRING THE PAYMENT OF A FEE OR OTHER VALUABLE
33 CONSIDERATION IN EXCHANGE FOR REMOVING OR REVISING CRIMINAL JUSTICE
34 RECORDS THAT HAVE BEEN PUBLISHED ON A WEBSITE OR OTHER PUBLICATION.

35 C. A SUBJECT INDIVIDUAL WHOSE CRIMINAL JUSTICE RECORD IS PUBLISHED
36 IN VIOLATION OF SUBSECTION B OF THIS SECTION AND WHO SUFFERS A PECUNIARY
37 LOSS OR WHO IS OTHERWISE ADVERSELY AFFECTED AS A RESULT OF A VIOLATION OF
38 SUBSECTION B OF THIS SECTION HAS A CAUSE OF ACTION AGAINST THE PERSON
39 RESPONSIBLE FOR THE VIOLATION AND MAY RECOVER DAMAGES IN ADDITION TO THE
40 DAMAGES PRESCRIBED IN SUBSECTION D OF THIS SECTION IN ANY COURT OF
41 COMPETENT JURISDICTION.

42 D. A PERSON THAT VIOLATES SUBSECTION B OF THIS SECTION IS LIABLE
43 FOR DAMAGES FOR EACH SEPARATE VIOLATION IN AN AMOUNT OF AT LEAST:

44 1. \$100 PER DAY DURING THE FIRST THIRTY DAYS OF THE VIOLATION.

45 2. \$200 PER DAY DURING THE SUBSEQUENT THIRTY DAYS OF THE VIOLATION.

1 3. \$500 PER DAY FOR EACH DAY THEREAFTER.

2 E. THIS ARTICLE DOES NOT APPLY TO ANY ACT PERFORMED FOR THE PURPOSE
3 OF DISSEMINATING NEWS TO THE PUBLIC, INCLUDING THE GATHERING, PUBLISHING
4 OR BROADCASTING INFORMATION TO THE PUBLIC FOR A NEWS-RELATED PURPOSE, OR
5 TO ANY ACT PERFORMED BY A PUBLISHER, OWNER, AGENT, EMPLOYEE OR RETAILER OF
6 A NEWSPAPER, RADIO STATION, RADIO NETWORK, TELEVISION STATION, TELEVISION
7 BROADCAST NETWORK, CABLE TELEVISION NETWORK OR OTHER ONLINE NEWS OUTLET
8 ASSOCIATED WITH ANY NEWS ORGANIZATION IN CONNECTION WITH THE DISSEMINATION
9 OF NEWS TO THE PUBLIC, INCLUDING THE GATHERING, PUBLISHING OR BROADCASTING
10 INFORMATION TO THE PUBLIC FOR A NEWS-RELATED PURPOSE.

11 F. THIS ARTICLE DOES NOT APPLY TO ACTIVITIES BY A LICENSED
12 ATTORNEY, PRIVATE INVESTIGATOR OR REGISTERED PROCESS SERVER THAT ARE
13 ASSOCIATED WITH PURPOSES RELATING TO A CURRENT OR ANTICIPATED CRIMINAL OR
14 CIVIL PROCEEDING. THIS SECTION DOES NOT AFFECT THE CONDUCT OF TRIALS OR
15 THE DISCOVERY PROCESS IN ANY PROCEEDING AS OTHERWISE PROVIDED BY LAW OR
16 COURT RULE.