

BILL ANALYSIS

Senate Research Center
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S.B. 509
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, any time someone is arrested for a crime and booked into a county jail, they are fingerprinted and photographed. These mug shots are publicly available and they are often easily accessible on county jail websites. Mug shots are regularly published in local newspapers, allowing these photos to be widely distributed.

Mug shots are a crucial form of record keeping in order to track criminal convictions. However, mug shots can also cause long-term reputational damage to a person if charges are eventually dropped or dismissed.

S.B. 509 prohibits mug shots from being released to the public unless the person was actually convicted of a crime. Therefore, these photos would remain confidential while a person is waiting to stand trial or in the case where charges were dropped or dismissed prior to a verdict.

The bill provides two exceptions: (1) it allows for the release of mug shots prior to a conviction if the individual is a fugitive or an imminent threat to the community and releasing the photo will help apprehend the person or (2) a judge orders the release of the photo in furtherance of a law enforcement interest.

As proposed, S.B. 509 amends current law relating to the confidentiality of certain mug shots.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 109.005(a), Business and Commerce Code, as follows:

(a) Prohibits a business entity from publishing any criminal record information in the business entity's possession:

(1) creates this subdivision from existing text and makes nonsubstantive changes;
or

(2) that is prohibited from being released to the public under Section 552.1082, Government Code.

SECTION 2. Amends Subchapter C, Chapter 552, Government Code, by adding Section 552.1082, as follows:

Sec. 552.1082. RELEASE OF MUG SHOTS. (a) Defines "mug shot."

(b) Prohibits a mugshot from being released to the public, unless:

(1) the individual has been convicted of a criminal offense, other than an offense described by Subsection (c), based upon the conduct for which the individual was arrested or incarcerated at the time the mug shot was taken;

(2) the law enforcement agency releases the mugshot after determining that:

(A) the individual is a fugitive or an imminent threat to another individual or to public safety; and

(B) releasing the mug shot will assist in apprehending the individual or reducing or eliminating the threat; or

(3) a judge orders the release of the mug shot based on a finding that the release is in furtherance of a legitimate law enforcement interest.

(c) Prohibits a mug shot from being released to the public if the mug shot was taken in association with an offense for which the conviction has been expunged or the individual has been fully exonerated.

(d) Provides that if an individual was charged with multiple offenses based upon the conduct for which the individual was arrested or incarcerated at the time the mug shot was taken, and the individual was later convicted of one or more of those offenses, the individual's mug shot is authorized to be released to the public unless all of the convictions have been expunged or the individual has been fully exonerated of all convictions.

SECTION 3. Amends Section 552.1425(a), Government Code, as follows:

(a) Prohibits a private entity that compiles and disseminates for compensation criminal history record information from compiling or disseminating information:

(1) creates this subdivision from existing text and makes nonsubstantive changes; or

(2) that is prohibited from being released to the public under Section 552.1082.

SECTION 4. Provides that the change in law made by this Act applies to a mug shot regardless of the date it was created.

SECTION 5. Effective date: upon passage or September 1, 2023.