

By: Bucy

H.B. No. 3825

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the publication of certain criminal record information of individuals involved in the criminal justice system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 109.005, Business & Commerce Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) Notwithstanding Section 109.003, a business entity may not publish criminal record information of an individual that includes a photograph described under Section 109.001(2)(B) unless the individual who is the subject of the information has been convicted of an offense arising out of the same transaction for which the individual was arrested or otherwise involved in the criminal justice system and pursuant to which the photograph was taken.

SECTION 2. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.36 to read as follows:

Art. 2.36. PUBLICATION OF MUG SHOT BY LAW ENFORCEMENT AGENCY. (a) In this article:

(1) "Mug shot" means a photograph of an individual taken during the process of arresting the individual or booking the individual into jail.

(2) "Publish" has the meaning assigned by Section 109.001, Business & Commerce Code.

(b) A law enforcement agency may not publish an individual's

1 mug shot, unless:

2 (1) the individual has been convicted of an offense
3 based on the conduct for which the individual was arrested or
4 incarcerated at the time the mug shot was taken;

5 (2) the law enforcement agency publishes the mug shot
6 after determining that:

7 (A) the individual is:

8 (i) a fugitive; or

9 (ii) an imminent threat to another
10 individual or to public safety; and

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

14 (3) a judge orders the release of the mug shot based on
15 good cause shown.

16 (c) Mug shots are not confidential and are subject to
17 disclosure in accordance with Chapter 552, Government Code.

18 SECTION 3. The changes in law made by this Act apply to any
19 publication of criminal record information, including a mug shot,
20 that occurs on or after the effective date of this Act, regardless
21 of whether:

22 (1) the information relates to an arrest that occurred
23 before, on, or after that date; or

24 (2) the information was initially published before
25 that date.

26 SECTION 4. This Act takes effect September 1, 2023.