

HOUSE BILL 744

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5lr2429

By: **Delegates Carter, Conaway, Hayes, and McCray**

Introduced and read first time: February 13, 2015

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Consumer Protection – “Mug Shot” Web Sites**

3 FOR the purpose of authorizing an individual to request an operator of a Web site to remove
4 the individual’s photograph or digital image from the operator’s Web site under
5 certain circumstances; requiring an individual to make a certain request for removal
6 of a photograph or digital image in a certain manner; requiring an operator of a Web
7 site to remove the photograph or digital image of an individual within a certain
8 period of time and to send a certain written confirmation to the individual within a
9 certain period of time; prohibiting an operator of a Web site from charging an
10 individual for the removal of the individual’s photograph or digital image; making a
11 violation of this Act an unfair or deceptive trade practice under the Maryland
12 Consumer Protection Act and subject to certain enforcement and penalty provisions;
13 and generally relating to the removal of photographs and digital images from Web
14 sites.

15 BY adding to

16 Article – Commercial Law

17 Section 14–1324

18 Annotated Code of Maryland

19 (2013 Replacement Volume and 2014 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

21 That the Laws of Maryland read as follows:

22 **Article – Commercial Law**

23 **14–1324.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) AN INDIVIDUAL MAY REQUEST AN OPERATOR OF A WEB SITE TO
2 REMOVE THE INDIVIDUAL'S PHOTOGRAPH OR DIGITAL IMAGE FROM THE
3 OPERATOR'S WEB SITE IF:

4 (1) THE PHOTOGRAPH OR DIGITAL IMAGE WAS TAKEN DURING THE
5 ARREST OR DETENTION OF THE INDIVIDUAL FOR A CRIMINAL OR TRAFFIC CHARGE
6 OR SUSPECTED VIOLATION OF A CRIMINAL OR TRAFFIC LAW; AND

7 (2) THE INDIVIDUAL IS ENTITLED TO EXPUNGEMENT OF THE COURT
8 RECORD OR POLICE RECORD THAT CONTAINED THE PHOTOGRAPH OR DIGITAL
9 IMAGE UNDER TITLE 10, SUBTITLE 1 OF THE CRIMINAL PROCEDURE ARTICLE.

10 (B) AN INDIVIDUAL SHALL MAKE A REQUEST FOR REMOVAL OF A
11 PHOTOGRAPH OR DIGITAL IMAGE UNDER SUBSECTION (A) OF THIS SECTION BY:

12 (1) WRITTEN REQUEST SENT BY CERTIFIED MAIL; OR

13 (2) ELECTRONIC MAIL USING AN ELECTRONIC POSTMARK IF THE
14 OPERATOR MAKES AVAILABLE A SECURE ELECTRONIC MAIL CONNECTION ON THE
15 OPERATOR'S WEB SITE.

16 (C) AN OPERATOR OF A WEB SITE SHALL REMOVE THE PHOTOGRAPH OR
17 DIGITAL IMAGE OF AN INDIVIDUAL WITHIN 30 DAYS AFTER RECEIVING A REQUEST
18 UNDER SUBSECTION (B) OF THIS SECTION.

19 (D) WITHIN 5 BUSINESS DAYS AFTER REMOVING A PHOTOGRAPH OR
20 DIGITAL IMAGE OF AN INDIVIDUAL, THE OPERATOR OF A WEB SITE SHALL SEND A
21 WRITTEN CONFIRMATION OF THE REMOVAL TO THE INDIVIDUAL.

22 (E) AN OPERATOR OF A WEB SITE MAY NOT CHARGE AN INDIVIDUAL FOR
23 THE REMOVAL OF THE INDIVIDUAL'S PHOTOGRAPH OR DIGITAL IMAGE UNDER THIS
24 SECTION.

25 (F) A VIOLATION OF THIS SECTION IS:

26 (1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE
27 MEANING OF TITLE 13 OF THIS ARTICLE; AND

28 (2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS
29 CONTAINED IN TITLE 13 OF THIS ARTICLE.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2015.