

HOUSE BILL 744

I3

5lr2429

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

Introduced and read first time: February 13, 2015

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2015

CHAPTER _____

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, under certain circumstances; prohibiting an operator of a Web
10 site from charging an individual for the removal of the individual’s photograph or
11 digital image under this Act; making a violation of this Act an unfair or deceptive
12 trade practice under the Maryland Consumer Protection Act and subject to certain
13 enforcement and penalty provisions; providing for the application of this Act; and
14 generally relating to the removal of photographs and digital images from Web 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**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 14-1324.

2 (A) THIS SECTION APPLIES TO THE OPERATOR OF A WEB SITE THAT
3 CHARGES A FEE TO REMOVE AN ARREST OR DETENTION PHOTOGRAPH OR DIGITAL
4 IMAGE.

5 (B) AN INDIVIDUAL MAY REQUEST AN OPERATOR OF A WEB SITE TO
6 REMOVE THE INDIVIDUAL'S PHOTOGRAPH OR DIGITAL IMAGE FROM THE
7 OPERATOR'S WEB SITE IF:

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

11 (2) (I) ~~THE INDIVIDUAL IS ENTITLED TO EXPUNGEMENT OF THE~~
12 COURT RECORD OR POLICE RECORD THAT CONTAINED THE PHOTOGRAPH OR
13 DIGITAL IMAGE WAS EXPUNGED UNDER TITLE 10, SUBTITLE 1 OF THE CRIMINAL
14 PROCEDURE ARTICLE;

15 (II) THE INDIVIDUAL HAS SUCCESSFULLY PETITIONED A COURT
16 TO HAVE THE COURT RECORD OR POLICE RECORD THAT CONTAINED THE
17 PHOTOGRAPH OR DIGITAL IMAGE SHIELDED OR OTHERWISE REMOVED FROM
18 PUBLIC INSPECTION; OR

19 (III) THE INDIVIDUAL HAS SUCCESSFULLY PETITIONED A COURT
20 TO VACATE THE JUDGMENT THAT RESULTED FROM THE ARREST OR DETENTION.

21 ~~(B)~~ (C) AN INDIVIDUAL SHALL MAKE A REQUEST FOR REMOVAL OF A
22 PHOTOGRAPH OR DIGITAL IMAGE UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION BY:

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

24 (2) ELECTRONIC MAIL USING AN ELECTRONIC POSTMARK IF THE
25 OPERATOR MAKES AVAILABLE A SECURE ELECTRONIC MAIL CONNECTION ON THE
26 OPERATOR'S WEB SITE.

27 ~~(C)~~ (D) AN OPERATOR OF A WEB SITE SHALL REMOVE THE PHOTOGRAPH
28 OR DIGITAL IMAGE OF AN INDIVIDUAL WITHIN 30 DAYS AFTER RECEIVING A
29 REQUEST UNDER SUBSECTION ~~(B)~~ (C) OF THIS SECTION.

30 ~~(D)~~ (E) WITHIN 5 BUSINESS DAYS AFTER REMOVING A PHOTOGRAPH OR
31 DIGITAL IMAGE OF AN INDIVIDUAL, THE OPERATOR OF A WEB SITE SHALL SEND A
32 WRITTEN CONFIRMATION OF THE REMOVAL TO THE INDIVIDUAL.

1 ~~(E)~~ (F) AN OPERATOR OF A WEB SITE MAY NOT CHARGE AN INDIVIDUAL
2 FOR THE REMOVAL OF THE INDIVIDUAL'S PHOTOGRAPH OR DIGITAL IMAGE UNDER
3 THIS SECTION.

4 ~~(F)~~ (G) A VIOLATION OF THIS SECTION IS:

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.