

The House Committee on Judiciary Non-civil offers the following substitute to HB 845:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 35 and Code Section 50-18-72 of the Official Code of Georgia
2 Annotated, relating to general provisions for law enforcement officers and agencies and
3 when public disclosure is not required, respectively, so as to prohibit the disclosure of arrest
4 booking photographs under certain circumstances; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general
9 provisions for law enforcement officers and agencies, is amended by adding a new Code
10 section to read as follows:

11 "35-1-18.

12 (a) As used in this Code section, the term 'booking photograph' means a photograph or
13 image of an individual taken by an arresting law enforcement agency for the purpose of
14 identification or taken when such individual was processed into a jail.

15 (b) Except as provided in Code Section 50-18-77, and booking photographs required for
16 publication as set forth in Titles 16 and 40 and for the State Sexual Offender Registry, an
17 arresting law enforcement agency or agent thereof shall not post booking photographs to
18 or on a website.

19 (c) An arresting law enforcement agency shall not provide or make available a copy of a
20 booking photograph in any format to a person requesting such photograph if:

21 (1) Such booking photograph may be placed in a publication or posted to a website or
22 transferred to a person to be placed in a publication or posted to a website; and

23 (2) Removal or deletion of such booking photograph from such publication or website
24 requires the payment of a fee or other consideration.

25 (d) When a person requests a booking photograph, he or she shall submit a statement
26 affirming that the use of such photograph is in compliance with subsection (c) of this Code

27 section. Any person who knowingly makes a false statement in requesting a booking
28 photograph shall be guilty of a violation of Code Section 16-10-20."

29 **SECTION 2.**

30 Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public
31 disclosure is not required, is amended by revising paragraph (4) of subsection (a) as follows:

32 "(4) Records of law enforcement, prosecution, or regulatory agencies in any pending
33 investigation or prosecution of criminal or unlawful activity, other than initial police
34 arrest reports and initial incident reports; provided, however, that an investigation or
35 prosecution shall no longer be deemed to be pending when all direct litigation involving
36 such investigation and prosecution has become final or otherwise terminated; and
37 provided, further, that this paragraph shall not apply to records in the possession of an
38 agency that is the subject of the pending investigation or prosecution; and provided,
39 further, that the release of booking photographs shall only be permissible in accordance
40 with Code Section 35-1-18;"

41 **SECTION 3.**

42 All laws and parts of laws in conflict with this Act are repealed.