



Statutory Review: Booking Photos

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National Conference of State Legislatures



- Non-profit, bi-partisan organization.
- Members are all 7,386 legislators and 30,000 legislative staff in 50 states, D.C. and U.S. territories.
- Offices in Denver and D.C.
- Among our goals - To provide legislatures with information and research about policy issues, both state and federal.
- NCSL tracks state policy developments in all public policy areas.

What is a booking photo?

- Georgia § 35-1-19 definition:

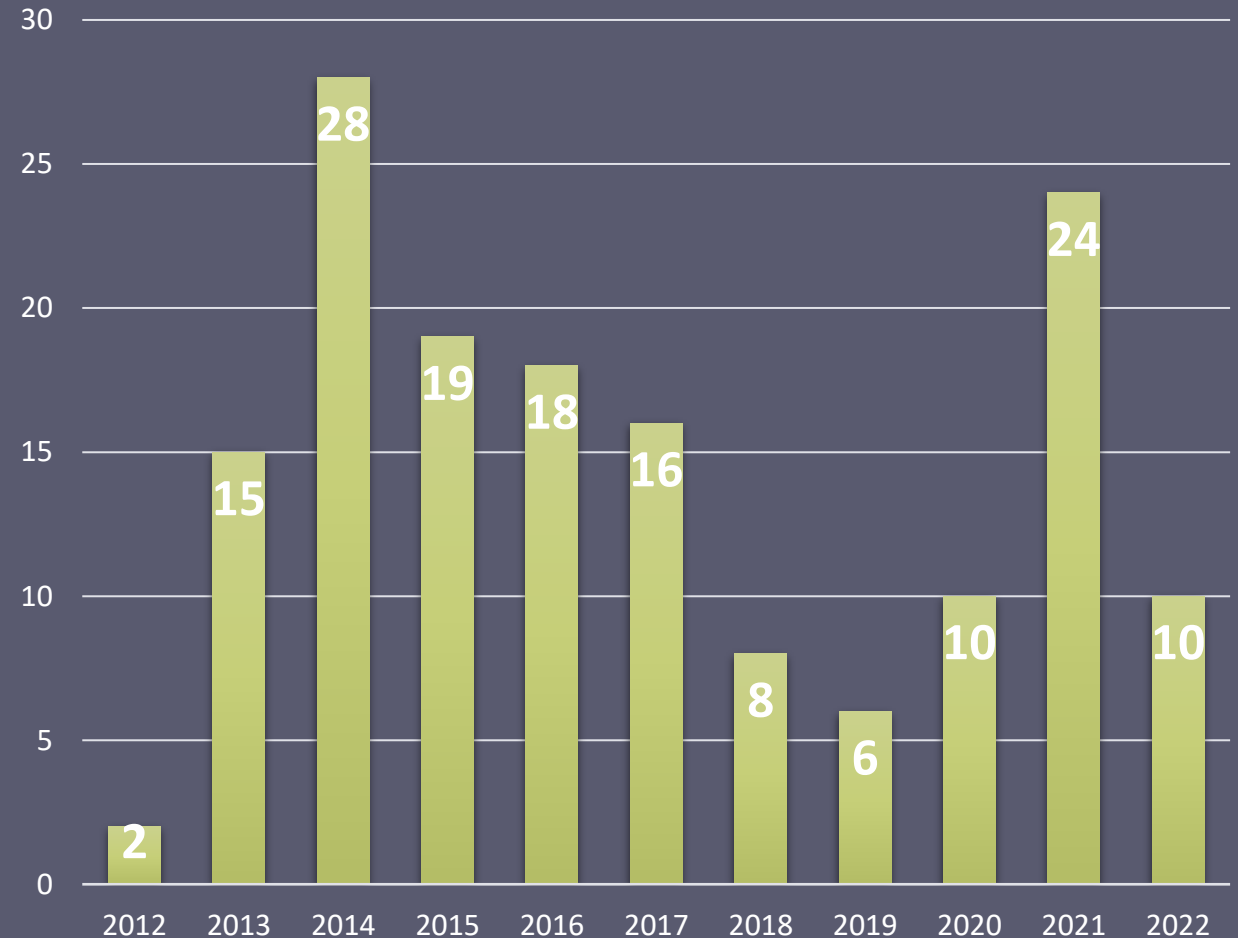
“a photograph or image of an individual taken by an arresting law enforcement agency for the purpose of identification or taken when such individual was processed into a jail”.

- Other states have similar definitions.

Booking Photo Legislation Introduced 2012-2022

- Booking photos have been around nearly as long as cameras.
- Webpages displaying digital booking photos for commercial gain emerged in 2011.
- Many webpages used computer automation to scrape law enforcement webpages to transfer photos without human assistance. Other photos were obtained through public records requests.
- Postings don't always contain case outcomes or complete information.

Introduced Booking Photo Legislation

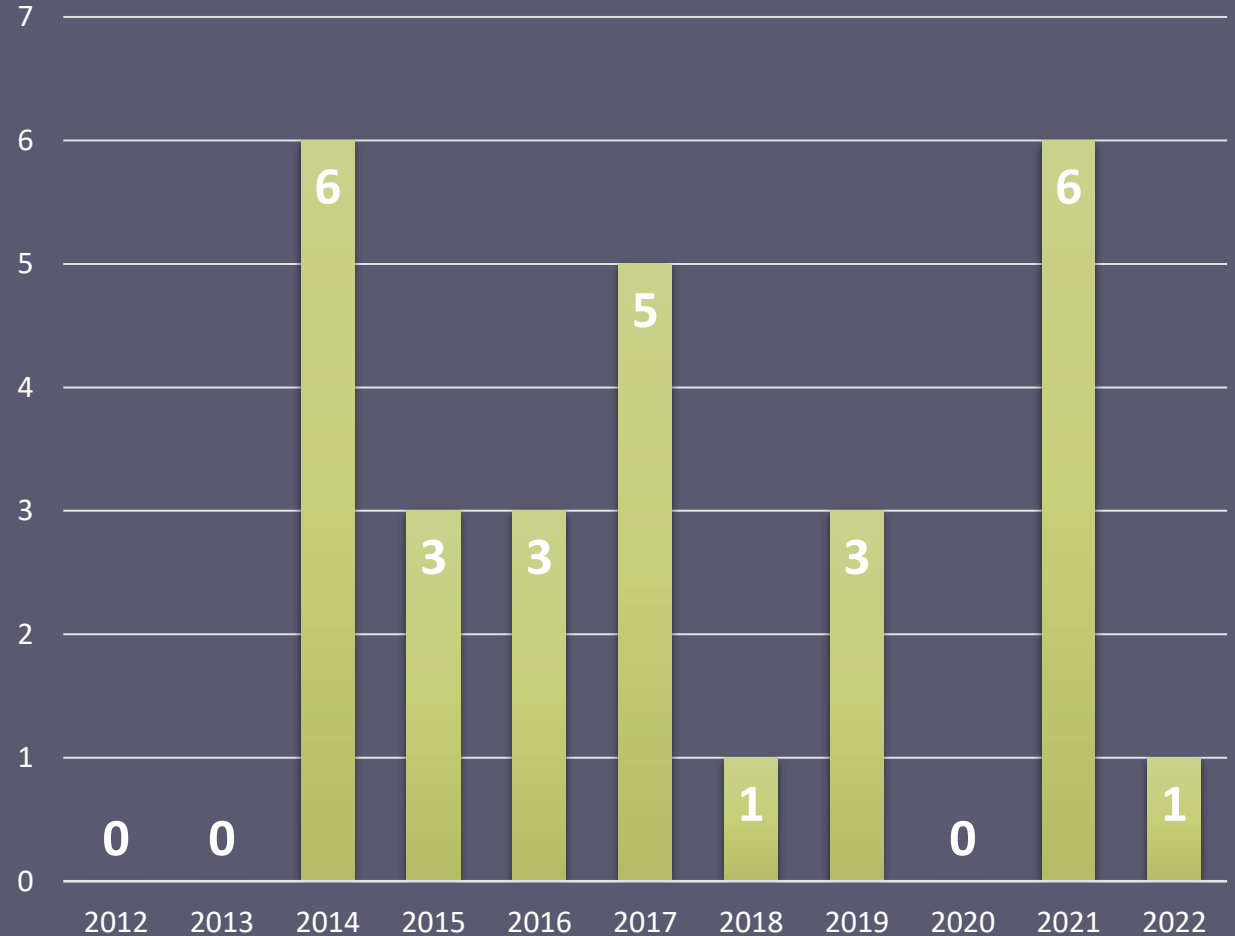


Booking Photo Legislation

Enacted 2012-2022

- Many webpages charged fees; a practice specifically prohibited by early legislation.
- As fees were prohibited, webpage traffic was still key for paid advertisements for other services or to drive newspaper traffic.
- Two first amendment questions: (1) Right to access; (2) Right to publish.
- Access to photos governed by state public records laws.

Enacted Booking Photo Legislation





Legislative Approaches

- Restricting access to photos based on intended use.
- Limiting law enforcement web posting.
- Prohibiting fees for removal from commercial webpages.
- Requiring removal in specified circumstances.
- Requiring additional accurate information about disposition of the matter.
- Explicitly outlining public access.

Other Non-Legislative Actions

- Credit card companies cut ties to limit payment.
- Search engine optimization changes to reduce prominence of the sites.
- Copyright or litigation.



Questions?

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NCSL Resources

- NCSL: [Booking Photo Legislation Review](#)