

**Minority Report**  
**B-Engrossed**  
**House Bill 3273**

Ordered by the Senate June 7  
Including House Amendments dated April 2 and Senate Minority  
Report Amendments dated June 7

Sponsored by nonconcurring members of the Senate Committee on Judiciary and Ballot Measure 110 Implementation: Senators LINTHICUM, THATCHER

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Prohibits law enforcement agency from releasing booking photo except in specified circumstances.]*

*[Requires publish-for-pay publication to remove and destroy booking photo upon request within specified time period. Prohibits publication from charging fee for removal and destruction of certain booking photos. Provides that publication is liable for fees, costs and statutory damages for failure to remove and destroy photo as required.]*

**Creates procedures by which person depicted in booking photo may petition court to prohibit release of photo to another person or entity.**

**A BILL FOR AN ACT**

1  
2 Relating to booking photos.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1)(a) Notwithstanding ORS 192.311 to 192.478, within seven days of the cre-**  
5 **ation of a booking photo, the person depicted in the photo may petition the court for an or-**  
6 **der prohibiting the release of the photo to another person or entity. The petitioner shall**  
7 **serve a copy of the petition on the law enforcement agency that created the photo.**

8 **(b) The petition must be filed in the county in which the law enforcement agency that**  
9 **created the booking photo is located.**

10 **(2) If the law enforcement agency receives a request for a booking photo that is the**  
11 **subject of a petition described in subsection (1) of this section, the agency shall notify the**  
12 **requester of the fact that a petition has been filed and of the date and time of the hearing**  
13 **described in subsection (3) of this section.**

14 **(3)(a) Within 30 days of the filing of the petition, the court shall hold a hearing. The**  
15 **petitioner has the burden of establishing that prohibiting the release of the booking photo is**  
16 **in the public interest.**

17 **(b) At the hearing described in this subsection, the law enforcement agency may, but is**  
18 **not obligated to, appear to contest or otherwise be heard on the petition.**

19 **(c) A booking photo requester notified by the law enforcement agency under subsection**  
20 **(2) of this section, or any other person or entity with a bona fide interest in release of the**  
21 **photo, may appear at the hearing and be heard on the petition.**

22 **(d) If at the hearing the court finds that it is in the public interest to prohibit the release**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 of the booking photo, the court shall grant the petition and shall enter an order prohibiting  
2 the law enforcement agency from releasing the photo to any person or entity other than the  
3 petitioner.

4 (4)(a) Any person or entity may file a motion with the court to order the release of a  
5 booking photo that is subject to an order described in subsection (3) of this section. The  
6 movant shall serve a copy of the motion on the person depicted in the photo. The court shall  
7 hold a hearing on the motion, and the movant has the burden of establishing that the release  
8 of the photo is in the public interest. The person depicted in the photo may appear at the  
9 hearing and be heard on the motion. The court shall only consider information not previously  
10 considered at, or circumstances that have changed since, the hearing described in subsection  
11 (3) of this section.

12 (b) If at the hearing the court finds that it is in the public interest to release the booking  
13 photo, the court shall grant the motion and shall order the law enforcement agency that  
14 created the photo to provide a copy of the photo to the movant.

15 (5) A law enforcement agency may not release a booking photo unless:

16 (a) Seven days have passed since the creation of the photo, and a petition described in  
17 subsection (1) of this section has not been filed;

18 (b) The court has held the hearing described in subsection (3) of this section and did not  
19 grant the petition; or

20 (c) After a hearing described in subsection (4) of this section, the court ordered the re-  
21 lease of the photo.

22 (6) As used in this section:

23 (a) "Booking photo" means a photograph of a person taken by a law enforcement agency  
24 for identification purposes when the person is booked into custody.

25 (b) "Law enforcement agency" has the meaning given that term in ORS 131.915.  
26