

Requested by Senator THATCHER

**PROPOSED MINORITY REPORT AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3273**

1 On page 1 of the printed A-engrossed bill, delete lines 4 through 26 and
2 delete page 2 and insert:

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

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

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

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

19 **“(b) At the hearing described in this subsection, the law enforce-**
20 **ment agency may, but is not obligated to, appear to contest or other-**
21 **wise be heard on the petition.**

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

5 “(d) If at the hearing the court finds that it is in the public interest
6 to prohibit the release of the booking photo, court shall grant the pe-
7 tition and shall enter an order prohibiting the law enforcement agency
8 from releasing the photo to any person or entity other than the
9 petitioner.

10 “(4)(a) Any person or entity may file a motion with the court to
11 order the release of a booking photo that is subject to an order de-
12 scribed in subsection (3) of this section. The movant shall serve a copy
13 of the motion on the person depicted in the photo. The court shall hold
14 a hearing on the motion, and the movant has the burden of estab-
15 lishing that the release of the photo is in the public interest. The
16 person depicted in the photo may appear at the hearing and be heard
17 on the motion. The court shall only consider information not previ-
18 ously considered at, or circumstances that have changed since, the
19 hearing described in subsection (3) of this section.

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

24 “(5) A law enforcement agency may not release a booking photo
25 unless:

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

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

30 “(c) After a hearing described in subsection (4) of this section, the

1 court ordered the release of the photo.

2 “(6) As used in this section:

3 “(a) ‘Booking photo’ means a photograph of a person taken by a law
4 enforcement agency for identification purposes when the person is
5 booked into custody.

6 “(b) ‘Law enforcement agency’ has the meaning given that term in
7 ORS 131.915.”.

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