

Assembly Bill No. 994

CHAPTER 224

An act to amend Section 13665 of the Penal Code, relating to law enforcement.

[Approved by Governor September 23, 2023. Filed with
Secretary of State September 23, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 994, Jackson. Law enforcement: social media.

Existing law requires law enforcement agencies, departments, or entities to consider specified best practices regarding the downloading and storage of body-worn camera data, including prohibiting agency personnel from uploading recorded data onto public and social media internet websites, when establishing policies and procedures for the implementation and operation of a body-worn camera system.

Existing law prohibits a police department or sheriff's office from sharing, on social media, booking photos of an individual arrested on suspicion of committing a nonviolent crime, as defined, unless specified circumstances exist. Existing law requires a police department or sheriff's office that shares, on social media, a booking photo of an individual arrested for the suspected commission of a nonviolent crime to remove the information from its social media page, upon request, unless the same specified circumstances exist. Existing law also requires a police department or sheriff's office to remove the booking photo of a person who has committed any other crime from social media if the individual's record has been sealed, the individual's conviction has been dismissed, expunged, pardoned, or eradicated, the individual has been issued a certificate of rehabilitation, the individual is found not guilty of committing the crime for which they were arrested, or the individual was ultimately not charged with the crime or the charges were dismissed.

With respect to an individual who has been arrested for any crime, this bill would require a police department or sheriff's office, upon posting a booking photo on social media, to use the name and pronouns given by the individual arrested. The bill would authorize a police department or sheriff's office to use other legal names or known aliases of an individual in limited specified circumstances. This bill would also require that a police department or sheriff's office remove any booking photo shared on social media after 14 days unless specified circumstances exist. Because the bill would impose higher duties on local law enforcement, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 13665 of the Penal Code is amended to read:

13665. (a) A police department or sheriff's office shall not share, on social media, booking photos of an individual arrested on suspicion of committing a nonviolent crime unless any of the following circumstances exist:

(1) A police department or sheriff's office has determined that the suspect is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the suspect's image will assist in locating or apprehending the suspect or reducing or eliminating the threat.

(2) A judge orders the release or dissemination of the suspect's image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

(3) There is an exigent circumstance that necessitates the dissemination of the suspect's image in furtherance of an urgent and legitimate law enforcement interest.

(b) With respect to an individual who has been arrested for any crime, including crimes defined in subdivision (c) of Section 667.5, a police department or sheriff's office that shares, on social media, an individual's booking photo shall do both of the following:

(1) Use the name and pronouns given by the individual. A police department or sheriff's office may include other legal names or known aliases of an individual if using the names or aliases will assist in locating or apprehending the individual or reducing or eliminating an imminent threat to an individual or to public safety or an exigent circumstance exists that necessitates the use of other legal names or known aliases of an individual due to an urgent and legitimate law enforcement interest.

(2) Remove the booking photo from its social media page within 14 days unless any of the circumstances described in paragraphs (1) to (3), inclusive, of subdivision (a) exist.

(c) Subdivision (b) shall apply retroactively to any booking photo shared on social media.

(d) For purposes of this section, the following terms have the following meanings:

(1) "Nonviolent crime" means a crime not identified in subdivision (c) of Section 667.5.

(2) “Social media” has the same meaning as in Section 632.01, except that social media does not include an internet website or an electronic data system developed and administered by the police department or sheriff’s office.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.