

# SENATE BILL REPORT

## SHB 1689

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As of March 21, 2011

**Title:** An act relating to allowing booking photographs and electronic images at jails to be open to the public.

**Brief Description:** Allowing booking photographs at jails to be open to the public after charges have been filed.

**Sponsors:** House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representative Hurst).

**Brief History:** Passed House: 3/07/11, 77-19.

**Committee Activity:** Government Operations, Tribal Relations & Elections: 3/21/11.

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

**Staff:** Sharon Swanson (786-7447)

**Background:** Each city and county jail located in Washington is required to maintain a jail register, which is open to the public. The law enforcement officer who is charged with being responsible for the operation of the jail must enter, on a timely basis, the name of each person held in confinement, the reason for confinement, when the person was confined, and the time and manner in which the person was charged.

Generally, all other records regarding a person confined in jail are confidential and may only be released to a criminal justice agency or upon the written consent of the person being held. Law enforcement may use the booking photographs of a person arrested and confined in a jail or prison to assist in conducting criminal investigations. Certain information and photographs of persons convicted of a sex offense may be released to the public for community protection purposes.

**Summary of Bill:** Each county and city jail must include booking photographs of each person confined in jail as part of its jail register, but only after charges are filed on that individual.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Various technical changes are made, including the deletion of a provision of the act that was repealed by the Legislature in 1987 and adding the authorization to release records relating to kidnappers which is consistent with current statute under RCW 4.24.550.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The public has a right to know which members of society are in custody and why. This bill creates good public policy. The House amendment that allows release of a booking photo once a person has been charged improves the bill. In 1999 the public lost access to booking photos. Some jurisdictions release the photos and others don't. This bill clarifies that the photos are public records and must be released once a person has been charged with a crime.

CON: Often times charges are filed before an investigation is complete. If a person's photo is released it can influence potential jurors and taint identification down the road. The distribution of a photo can definitely impact a photo montage. The witness will remember seeing the booking photo and that can influence later identification. Eyewitness accounts are notoriously unreliable. This bill damages the accused's due process rights and right to privacy. If the person is later found not guilty, the booking photo is still out in the public record causing long-term damage to the person's reputation.

**Persons Testifying:** PRO: Bill Will, Washington Newspaper Publishers Association; Michael Wagar, The Chronicle; Rowland Thompson, Allied Daily Newspapers of Washington.

CON: Robert Quillian, Washington Association of Criminal Defense Lawyers; Shankar Narayan, ACLU of Washington.