

1                                   A bill to be entitled  
 2           An act relating to destruction of records of wrongful  
 3           arrests of young persons; providing a short title;  
 4           creating s. 943.05815, F.S.; requiring the Department  
 5           of Law Enforcement to adopt a rule requiring the  
 6           destruction of a nonjudicial record of an arrest of a  
 7           person 25 years of age or younger at the time of the  
 8           arrest in specified circumstances when there was no  
 9           conviction; providing duties of the department  
 10          concerning the destruction of such records; providing  
 11          procedures for seeking the destruction of such  
 12          records; prohibiting admissibility of and providing  
 13          for construction of applications made under this  
 14          section; providing an effective date.

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 16 Be It Enacted by the Legislature of the State of Florida:

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 18           Section 1. This act may be cited as the "Wrongful Arrest  
 19 Act."

20           Section 2. Section 943.05815, Florida Statutes, is created  
 21 to read:

22           943.05815 Young persons wrongfully arrested; destruction  
 23 of records.-

24           (1) Notwithstanding any law dealing generally with the  
 25 preservation and destruction of public records, the department

26 | shall adopt a rule pursuant to chapter 120 requiring the  
27 | destruction of any nonjudicial record of an arrest of a person  
28 | 25 years of age or younger at the time of the arrest if the  
29 | arrest was made contrary to law or by mistake, the charge was  
30 | dismissed or nolle prosequi by the state attorney or statewide  
31 | prosecutor, the charge was dismissed by a court of competent  
32 | jurisdiction, a judgment of acquittal was rendered by a judge,  
33 | or a verdict of not guilty was rendered by a judge or jury. In  
34 | addition to destroying all state records of such an arrest, the  
35 | state is responsible for working with local and federal law  
36 | enforcement agencies to ensure that all database information is  
37 | cleared of all records of the arrest.

38 | (2) (a) A law enforcement agency shall apply to the  
39 | department in the manner prescribed by rule for the destruction  
40 | of any nonjudicial record of an arrest of a person who was 25  
41 | years of age or younger at the time of the arrest and who is  
42 | subsequently determined by the agency or by the final order of a  
43 | court of competent jurisdiction to have been arrested contrary  
44 | to law or by mistake, the charge was dismissed or nolle prosequi  
45 | by the state attorney or statewide prosecutor, the charge was  
46 | dismissed by a court of competent jurisdiction, a judgment of  
47 | acquittal was rendered by a judge, or a verdict of not guilty  
48 | was rendered by a judge or jury.

49 | (b) If the agency declines to make an application under  
50 | paragraph (a), the parent or legal guardian of the young person,

51 or the young person if he or she is 18 years of age or older,  
52 may apply to the department in the manner prescribed by rule for  
53 the destruction of any nonjudicial record of an arrest described  
54 in this subsection.

55 (3) An application for destruction of a nonjudicial record  
56 under this section shall include the date and time of the  
57 arrest, the name of the person arrested, and the crime or crimes  
58 charged. If the application is made by an arresting agency, it  
59 shall be on the submitting agency's letterhead, shall be signed  
60 by the head of the submitting agency or his or her designee, and  
61 shall include the Offender Based Transaction Statistics (OBTS)  
62 number.

63 (4) If the person was arrested on a warrant, capias, or  
64 pickup order, a request for an administrative destruction shall  
65 be made by the sheriff of the county in which the warrant,  
66 capias, or pickup order was issued, or his or her designee, or  
67 by the state attorney of the judicial circuit in which the  
68 warrant, capias, or pickup order was issued, or his or her  
69 designee.

70 (5) An application under this section is not admissible as  
71 evidence in any judicial or administrative proceeding and may  
72 not be construed in any way as an admission of liability in  
73 connection with an arrest.

74 Section 3. This act shall take effect July 1, 2020.