

1                                   A bill to be entitled  
 2           An act relating to criminal history records;  
 3           prohibiting a person or entity engaged in publishing  
 4           or disseminating arrest booking photographs from  
 5           soliciting or accepting a fee or other payment to  
 6           remove the photograph; requiring a person or entity,  
 7           within a specified timeframe, to remove an arrest  
 8           booking photograph after receipt of a written request;  
 9           authorizing a person to bring a civil action to enjoin  
 10          such publishing of a photograph; authorizing a court  
 11          to impose a civil penalty and award attorney fees and  
 12          court costs; providing applicability; creating s.  
 13          943.0586, F.S.; requiring the Criminal Justice  
 14          Information Program to administratively seal the  
 15          criminal history records of an adult upon notification  
 16          by the clerk of the court under specified  
 17          circumstances; providing an effective date.

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

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 21           Section 1. (1) Any person or entity engaged in the  
 22 business of publishing or otherwise disseminating arrest booking  
 23 photographs of persons who have previously been arrested through  
 24 a publicly accessible print or electronic medium may not solicit  
 25 or accept a fee or other form of payment to remove the

26 | photographs.

27 |       (2) Within 10 calendar days of receipt of a written  
28 | request for removal of a booking photograph from a person whose  
29 | booking photograph is published or otherwise disseminated, or  
30 | from his or her legal representative, the person or entity who  
31 | published or otherwise disseminated the photograph shall remove  
32 | the photograph without charge.

33 |       (3) The person whose arrest booking photograph was  
34 | published or otherwise disseminated in the publication or  
35 | electronic medium may bring a civil action to enjoin the  
36 | continued publication or dissemination of the photograph if the  
37 | photograph is not removed within 10 calendar days after receipt  
38 | of the written request for removal. The court may impose a civil  
39 | penalty of \$1,000 per day for noncompliance with an injunction  
40 | and shall award reasonable attorney fees and court costs related  
41 | to the issuance and enforcement of the injunction. Moneys  
42 | recovered for civil penalties under this section shall be  
43 | deposited into the General Revenue Fund.

44 |       (4) Refusal to remove an arrest booking photograph after  
45 | written request has been made constitutes an unfair or deceptive  
46 | trade practice in accordance with part II of chapter 501.

47 |       (5) This section does not apply to any person or entity  
48 | that publishes or disseminates information relating to arrest  
49 | booking photographs unless the person or entity solicits or  
50 | accepts payment to remove the photographs.

51 Section 2. Section 943.0586, Florida Statutes, is created  
52 to read:

53 943.0586 Administrative sealing of criminal history  
54 records.-

55 (1) The Criminal Justice Information Program shall  
56 administratively seal the criminal history records pertaining to  
57 an arrest or incident of alleged criminal activity of an adult  
58 charged with a felony, misdemeanor, or violation of a comparable  
59 rule or ordinance by a state, county, municipal, or other law  
60 enforcement agency upon notification by the clerk of the court,  
61 pursuant to s. 943.052(2), that all of the charges related to  
62 the arrest or incident of alleged criminal activity were  
63 declined to be filed by the state attorney or statewide  
64 prosecutor or dismissed or nolle prosequi before trial, or  
65 resulted in a judgment of acquittal or verdict of not guilty at  
66 trial.

67 (2) The sealing of a criminal history record under this  
68 section has the same effect as a sealing under s. 943.059(4).

69 Section 3. This act shall take effect July 1, 2018.