

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 a photograph; authorizing a person whose arrest  
7           booking photograph is published to request in writing  
8           that it be removed; requiring that the written request  
9           be sent by registered mail and include specified  
10          information; requiring a person or entity to remove an  
11          arrest booking photograph within a specified timeframe  
12          after receipt of a written request; authorizing a  
13          person to bring a civil action to enjoin such  
14          publishing of a photograph; authorizing a court to  
15          impose a civil penalty and award attorney fees and  
16          court costs; providing that refusal to remove an  
17          arrest booking photograph after written request  
18          constitutes an unfair or deceptive practice; providing  
19          applicability; creating s. 943.0586, F.S.; requiring  
20          the Criminal Justice Information Program to  
21          administratively seal the criminal history records of  
22          an adult or a minor upon notification by the clerk of  
23          the court under specified circumstances; providing for  
24          contingent effect; providing effective dates.

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

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28       Section 1. (1) Any person or entity engaged in the  
29 business of publishing through a publicly accessible print or  
30 electronic medium or otherwise disseminating arrest booking  
31 photographs of persons who have previously been arrested may not  
32 solicit or accept a fee or other form of payment to remove the  
33 photographs.

34       (2) A person whose arrest booking photograph is published  
35 or otherwise disseminated, or his or her legal representative,  
36 may make a request, in writing, for the removal of an arrest  
37 booking photograph to the registered agent of the person or  
38 entity who published or otherwise disseminated the photograph.  
39 The written request for removal of the arrest booking photograph  
40 must be sent by registered mail and include sufficient proof of  
41 identification of the person whose arrest booking photograph was  
42 published or otherwise disseminated and specific information  
43 identifying the arrest booking photograph that the written  
44 request is seeking to remove. Within 10 days after receipt of  
45 the written request for removal of the arrest booking  
46 photograph, the person or entity who is engaged in the business  
47 of publishing or otherwise disseminating the photograph shall  
48 remove the arrest booking photograph without charge.

49       (3) The person whose arrest booking photograph was  
50 published or otherwise disseminated in the publication or

51 electronic medium may bring a civil action for damages and to  
52 enjoin the continued publication or dissemination of the  
53 photograph if the photograph is not removed within 10 calendar  
54 days after receipt of the written request for removal. The court  
55 may impose a civil penalty of \$1,000 per day for noncompliance  
56 with an injunction and shall award reasonable attorney fees and  
57 court costs related to the issuance and enforcement of the  
58 injunction. Moneys recovered for civil penalties under this  
59 section shall be deposited into the General Revenue Fund.

60 (4) This section does not apply to any person or entity  
61 that publishes or disseminates information relating to arrest  
62 booking photographs unless the person or entity solicits or  
63 accepts payment to remove the photographs.

64 Section 2. Effective upon the same date that HB 369 or  
65 similar legislation takes effect, only if such legislation is  
66 adopted in the same legislative session or an extension thereof  
67 and becomes a law, section 943.0586, Florida Statutes, is  
68 created to read:

69 943.0586 Administrative sealing of criminal history  
70 records.—

71 (1) The Criminal Justice Information Program shall  
72 administratively seal the criminal history records pertaining to  
73 an arrest or incident of alleged criminal activity of an adult  
74 or a minor charged with a felony, misdemeanor, or violation of a  
75 comparable rule or ordinance by a state, county, municipal, or

76 | other law enforcement agency upon notification by the clerk of  
77 | the court, pursuant to s. 943.052(2), that all the charges  
78 | related to the arrest or incident of alleged criminal activity  
79 | were declined to be filed by the state attorney or statewide  
80 | prosecutor, were dismissed or nolle prosequi before trial, or  
81 | resulted in a judgment of acquittal or a verdict of not guilty  
82 | at trial and that all appeals by the prosecution have been  
83 | exhausted or the time to file an appeal has expired.

84 |       Section 3. Except as otherwise expressly provided in this  
85 | act, this act shall take effect July 1, 2018.