HB 111

2005 CS

CHAMBER ACTION

1 The Justice Council recommends the following: 2 3 Council Substitute Remove the entire bill and insert: 4 A bill to be entitled 5 6 An act relating to administrative expunction of 7 nonjudicial arrest records; amending s. 943.0581, F.S.; 8 requiring the arresting law enforcement agency to apply to 9 the Department of Law Enforcement for the administrative 10 expunction of certain nonjudicial records of arrest; 11 authorizing certain persons to apply directly to the 12 department for administrative expunction in certain circumstances; requiring such persons to support such 13 14 application with an endorsement; requiring an affidavit; providing that an application, endorsement, or affidavit 15 16 may not be admitted into evidence or construed as an 17 admission of liability; providing an effective date. 18 Be It Enacted by the Legislature of the State of Florida: 19 20 21 Section 1. Section 943.0581, Florida Statutes, is amended 22 to read: 23 943.0581 Administrative expunction.--Page 1 of 3

CODING: Words stricken are deletions; words underlined are additions.

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24 (1) Notwithstanding any law dealing generally with the preservation and destruction of public records, the department 25 26 may provide, by rule adopted pursuant to chapter 120, for the 27 administrative expunction of any nonjudicial record of an arrest 28 of a minor or an adult made contrary to law or by mistake. 29 (2) A law enforcement agency shall apply to the department in the manner prescribed by rule for the administrative 30 expunction of any nonjudicial record of any arrest of a minor or 31 32 an adult who is subsequently determined by the agency, at its 33 discretion, or by the final order of a court of competent 34 jurisdiction, to have been arrested contrary to law or by 35 mistake. 36 (3) An adult or, in the case of a minor child, the parent 37 or legal guardian of the minor child, may apply to the department in the manner prescribed by rule for the 38 39 administrative expunction of any nonjudicial record of an arrest 40 alleged to have been made contrary to law or by mistake, provided that the application is supported by the endorsement of 41 42 the head of the arresting agency or the state attorney of the 43 judicial circuit in which the arrest occurred. (4) An application for administrative expunction shall 44 45 include an affidavit executed by the chief of the law 46 enforcement agency, sheriff, or department head of the state law 47 enforcement agency, which affidavit verifies that he or she has reviewed the record of the arrest and that the arrest was 48 49 contrary to law or a mistake. 50 (5) No application, endorsement, or affidavit made under 51 this section shall be admissible as evidence in any judicial or Page 2 of 3

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FLORIDA	HOUSE	OF REP	PRESENTA	A T I V E S
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52	administrative proceeding or otherwise be construed in any way	.5			
53	as an admission of liability in connection with an arrest.				
54	Section 2. This act shall take effect upon becoming a law.				
54	Section 2. This act shall take effect upon becoming a law.				
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