

CHAMBER ACTION

1 The Justice Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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
13 circumstances; requiring such persons to support such
14 application with an endorsement; requiring an affidavit
15 with specified information; providing that an application,
16 endorsement, or affidavit may not be admitted into
17 evidence or construed as an admission of liability;
18 providing an effective date.

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

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22 Section 1. Section 943.0581, Florida Statutes, is amended
23 to read:

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24 943.0581 Administrative expunction.--

25 (1) Notwithstanding any law dealing generally with the
 26 preservation and destruction of public records, the department
 27 may provide, by rule adopted pursuant to chapter 120, for the
 28 administrative expunction of any nonjudicial record of an arrest
 29 of a minor or an adult made contrary to law or by mistake.

30 (2) A law enforcement agency shall apply to the department
 31 in the manner prescribed by rule for the administrative
 32 expunction of any nonjudicial record of any arrest of a minor or
 33 an adult who is subsequently determined by the agency, at its
 34 discretion, or by the final order of a court of competent
 35 jurisdiction, to have been arrested contrary to law or by
 36 mistake.

37 (3) An adult or, in the case of a minor child, the parent
 38 or legal guardian of the minor child, may apply to the
 39 department in the manner prescribed by rule for the
 40 administrative expunction of any nonjudicial record of an arrest
 41 alleged to have been made contrary to law or by mistake,
 42 provided that the application is supported by the endorsement of
 43 the head of the arresting agency or the state attorney of the
 44 judicial circuit in which the arrest occurred.

45 (4) An application for administrative expunction shall
 46 include an affidavit executed by the chief of the law
 47 enforcement agency, sheriff, or department head of the state law
 48 enforcement agency in which the affiant verifies that he or she
 49 has reviewed the record of the arrest and that the arrest was
 50 contrary to law or was a mistake. The affidavit shall include
 51 the date and time of the arrest, the name of the arresting

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52 officer, the name of the person arrested, and the crime or
53 crimes charged.

54 (5) No application, endorsement, or affidavit made under
55 this section shall be admissible as evidence in any judicial or
56 administrative proceeding or otherwise be construed in any way
57 as an admission of liability in connection with an arrest.

58 Section 2. This act shall take effect upon becoming a law.