

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Plakon offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. (1) Any person or entity engaged in the
6 business of publishing through a publicly accessible print or
7 electronic medium or otherwise disseminating arrest booking
8 photographs of persons who have previously been arrested may not
9 solicit or accept a fee or other form of payment to remove the
10 photographs.

11 (2) A person whose arrest booking photograph is published
12 or otherwise disseminated, or his or her legal representative,
13 may make a request, in writing, for the removal of an arrest

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14 booking photograph to the registered agent of the person or
15 entity who published or otherwise disseminated the photograph.
16 The written request for removal of the arrest booking photograph
17 must be sent by registered mail and include sufficient proof of
18 identification of the person whose arrest booking photograph was
19 published or otherwise disseminated and specific information
20 identifying the arrest booking photograph that the written
21 request is seeking to remove. Within 10 days after receipt of
22 the written request for removal of the arrest booking
23 photograph, the person or entity who is engaged in the business
24 of publishing or otherwise disseminating the photograph shall
25 remove the arrest booking photograph without charge.

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

37 (4) This section does not apply to any person or entity
38 that publishes or otherwise disseminates information relating to

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39 arrest booking photographs unless the person or entity solicits
40 or accepts payment to remove the photographs.

41 Section 2. Effective July 1, 2018, and only if HB 369 or
42 similar legislation is adopted in the same legislative session
43 or an extension thereof and becomes a law, section 943.0586,
44 Florida Statutes, is created to read:

45 943.0586 Administrative sealing of criminal history
46 records.—The Criminal Justice Information Program shall
47 administratively seal the criminal history records pertaining to
48 an arrest or incident of alleged criminal activity of an adult
49 or a minor charged with a felony, misdemeanor, or violation of a
50 comparable rule or ordinance by a state, county, municipal, or
51 other law enforcement agency upon notification by the clerk of
52 the court, pursuant to s. 943.052(2), that all the charges
53 related to the arrest or incident of alleged criminal activity
54 were declined to be filed by the state attorney or statewide
55 prosecutor, were dismissed or nolle prosequi before trial, or
56 resulted in a judgment of acquittal or a verdict of not guilty
57 at trial, and that all appeals by the prosecution have been
58 exhausted or the time to file an appeal has expired.

59 Section 3. Except as otherwise expressly provided in this
60 act, this act shall take effect July 1, 2018.

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63 **T I T L E A M E N D M E N T**

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64 Remove everything before the enacting clause and insert:

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66 A bill to be entitled

67 An act relating to criminal history records;

68 prohibiting a person or entity engaged in publishing

69 or otherwise disseminating arrest booking photographs

70 from soliciting or accepting a fee or other payment to

71 remove a photograph; authorizing a person whose arrest

72 booking photograph is published to request in writing

73 that it be removed; requiring that the written request

74 be sent by registered mail and include specified

75 information; requiring a person or entity to remove an

76 arrest booking photograph within a specified timeframe

77 after receipt of a written request; authorizing a

78 person to bring a civil action to enjoin such

79 publishing of a photograph; authorizing a court to

80 impose a civil penalty and award attorney fees and

81 court costs; providing applicability; creating s.

82 943.0586, F.S.; requiring the Criminal Justice

83 Information Program to administratively seal the

84 criminal history records of an adult or a minor upon

85 notification by the clerk of the court under specified

86 circumstances; providing for contingent effect;

87 providing effective dates.

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