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1  
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  
24 effective dates, including a contingent effective  
25 date.

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

28  
29 Section 1. (1) Any person or entity engaged in the business

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30 of publishing through a publicly accessible print or electronic  
31 medium or otherwise disseminating arrest booking photographs of  
32 persons who have previously been arrested may not solicit or  
33 accept a fee or other form of payment to remove the 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 of receipt of the  
45 written request for removal of the arrest booking photograph,  
46 the person or entity who published or otherwise disseminated the  
47 photograph shall remove the arrest booking photograph without  
48 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 to enjoin the  
52 continued publication or dissemination of the photograph if the  
53 photograph is not removed within 10 calendar days after receipt  
54 of the written request for removal. The court may impose a civil  
55 penalty of \$1,000 per day for noncompliance with an injunction  
56 and shall award reasonable attorney fees and court costs related  
57 to the issuance and enforcement of the injunction. Moneys  
58 recovered for civil penalties under this section shall be

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59 deposited into the General Revenue Fund.

60 (4) Refusal to remove an arrest booking photograph after  
61 written request has been made constitutes an unfair or deceptive  
62 trade practice in accordance with part II of chapter 501,  
63 Florida Statutes.

64 (5) This section does not apply to any person or entity  
65 that publishes or disseminates information relating to arrest  
66 booking photographs unless the person or entity solicits or  
67 accepts payment to remove the photographs.

68 Section 2. Effective upon the same date that SB 450 or  
69 similar legislation takes effect, only if such legislation is  
70 adopted in the same legislative session or an extension thereof  
71 and becomes a law, section 943.0586, Florida Statutes, is  
72 created to read:

73 943.0586 Administrative sealing of criminal history  
74 records.—

75 (1) The Criminal Justice Information Program shall  
76 administratively seal the criminal history records pertaining to  
77 an arrest or incident of alleged criminal activity of an adult  
78 or a minor charged with a felony, misdemeanor, or violation of a  
79 comparable rule or ordinance by a state, county, municipal, or  
80 other law enforcement agency upon notification by the clerk of  
81 the court, pursuant to s. 943.052(2), that all the charges  
82 related to the arrest or incident of alleged criminal activity  
83 were declined to be filed by the state attorney or statewide  
84 prosecutor, were dismissed or nolle prosequi before trial, or  
85 resulted in a judgment of acquittal or a verdict of not guilty  
86 at trial and that all appeals by the prosecution have been  
87 exhausted or the time to file an appeal has expired.

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88           Section 3. Except as otherwise expressly provided in this  
89 act and except for this section, which shall take effect upon  
90 this act becoming a law, this act shall take effect July 1,  
91 2018.