

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 otherwise disseminating arrest booking photographs
5 from 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 applicability; creating s.
17 943.0586, F.S.; requiring the Criminal Justice
18 Information Program to administratively seal the
19 criminal history records of an adult or a minor upon
20 notification by the clerk of the court under specified
21 circumstances; providing for contingent effect;
22 providing effective dates.

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24 Be It Enacted by the Legislature of the State of Florida:
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26 Section 1. (1) Any person or entity engaged in the
27 business of publishing through a publicly accessible print or
28 electronic medium or otherwise disseminating arrest booking
29 photographs of persons who have previously been arrested may not
30 solicit or accept a fee or other form of payment to remove the
31 photographs.

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

47 (3) The person whose arrest booking photograph was
48 published or otherwise disseminated in the publication or
49 electronic medium may bring a civil action for damages and to
50 enjoin the continued publication or dissemination of the

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

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

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

66 943.0586 Administrative sealing of criminal history
67 records.—The Criminal Justice Information Program shall
68 administratively seal the criminal history records pertaining to
69 an arrest or incident of alleged criminal activity of an adult
70 or a minor charged with a felony, misdemeanor, or violation of a
71 comparable rule or ordinance by a state, county, municipal, or
72 other law enforcement agency upon notification by the clerk of
73 the court, pursuant to s. 943.052(2), that all the charges
74 related to the arrest or incident of alleged criminal activity
75 were declined to be filed by the state attorney or statewide

76 | prosecutor, were dismissed or nolle prosequi before trial, or
77 | resulted in a judgment of acquittal or a verdict of not guilty
78 | at trial, and that all appeals by the prosecution have been
79 | exhausted or the time to file an appeal has expired.

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