1 A bill to be entitled 2 An act relating to websites containing information 3 concerning persons charged with crimes; creating s. 4 501.9745, F.S.; providing definitions; providing that 5 publication of specified photographs of subject 6 individuals made in this state on a website for 7 purposes of commerce is deemed to be transaction of 8 business in this state; requiring removal of the 9 photograph from the website without fee or 10 compensation upon request by a subject individual; 11 providing requirements for the request; providing that 12 violations are subject to remedies under the Florida Deceptive and Unfair Trade Practices Act; amending s. 13 501.212, F.S.; providing exemptions from the Florida 14 15 Deceptive and Unfair Trade Practices Act for certain actions taken without actual knowledge of a violation; 16 17 providing an effective date. 18 19 Be It Enacted by the Legislature of the State of Florida: 20 21 Section 1. Section 501.9745, Florida Statutes, is created 22 to read: 23 501.9745 Photographs of persons charged with crimes.— 24 (1) As used in this section, the term: 25 "Photograph" means a photograph of a subject 26 individual taken in this state by an arresting law enforcement

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27	agency, jail, or correctional facility.
28	(b) "Subject individual" means an individual who was
29	arrested and had his or her photograph taken and:
30	1. The individual's criminal history record was sealed or
31	expunged pursuant to s. 943.0581, s. 943.0582, s. 943.0583, or
32	s. 943.0585;
33	2. Before indictment, accusation, or other charging
34	<pre>instrument:</pre>
35	a. The arresting law enforcement agency did not refer the
36	individual's case for further prosecution to the proper
37	prosecuting attorney, and the offense against the individual was
38	closed by the arresting law enforcement agency;
39	b. The statute of limitations expired; or
40	c. The individual's case was referred to the prosecuting
41	attorney but was later dismissed;
42	3. After indictment or accusation:
43	a. All charges were dismissed or nolle prosequi;
44	b. The individual pleaded guilty to or was found guilty of
45	possession of a narcotic drug, marijuana, or stimulant,
46	depressant, or hallucinogenic drug and was sentenced in
47	accordance with s. 948.01(7), s. 948.06(2)(i), or s. 948.20, and
48	the individual successfully completed the terms and conditions
49	of the individual's community control or probation; or
50	4. The individual was acquitted of all of the charges by a
51	judge or jury.

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A person who, for purposes of commerce, engages in

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activity involving or using a computer or computer network and who publishes on the person's publicly available website a subject individual's arrest booking photograph or other photograph of a subject individual made pursuant to the subject individual's incarceration in a jail or correctional facility is deemed to be transacting business in this state. Within 30 days after a subject individual sends a written request, including the subject individual's name, date of birth, date of arrest, and the name of the arresting law enforcement agency, the person shall, without fee or compensation, remove the subject individual's arrest booking photograph from the person's website. The written request must be transmitted by certified mail, return receipt requested, or overnight delivery service, to the registered agent, principal place of business, or primary residence of the person who published the website. Without otherwise limiting the definition of unfair and deceptive acts or practices under this chapter, a failure to comply with this section is a violation of part II.

Section 2. Subsection (2) of section 501.212, Florida Statutes, is amended to read:

501.212 Application.—This part does not apply to:

(2) A publisher, broadcaster, printer, or other person engaged in the dissemination, in print or electronically, of information or commentary or the reproduction of printed or pictorial matter, or who is the provider of an interactive computer service as defined in 47 U.S.C. s. 230 insofar as the

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information or matter has been disseminated or reproduced <u>or to</u>
which access has been enabled on behalf of others without actual
knowledge that it violated this part.

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Section 3. This act shall take effect October 1, 2014.

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