



240462

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/06/2017	.	
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The Committee on Criminal Justice (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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



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11 (2) Within 10 calendar days of receipt of a written request
12 for removal of a booking photograph from a person whose booking
13 photograph is published or otherwise disseminated, or from his
14 or her legal representative, the person or entity who published
15 or otherwise disseminated the photograph shall remove the
16 photograph without charge.

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

28 (4) Refusal to remove an arrest booking photograph after
29 written request has been made constitutes an unfair or deceptive
30 trade practice in accordance with part II of chapter 501.

31 (5) This section does not apply to any person or entity
32 that publishes or disseminates information relating to arrests
33 unless the person or entity solicits or accepts payment to
34 remove, correct, or modify the photographs.

35 Section 2. Paragraph (a) of subsection (2) of section
36 943.0585, Florida Statutes, is amended to read:

37 943.0585 Court-ordered expunction of criminal history
38 records.—

39 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to



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40 petitioning the court to expunge a criminal history record, a
41 person seeking to expunge a criminal history record shall apply
42 to the department for a certificate of eligibility for
43 expunction. The department shall, by rule adopted pursuant to
44 chapter 120, establish procedures pertaining to the application
45 for and issuance of certificates of eligibility for expunction.
46 A certificate of eligibility for expunction is valid for 12
47 months after the date stamped on the certificate when issued by
48 the department. After that time, the petitioner must reapply to
49 the department for a new certificate of eligibility. Eligibility
50 for a renewed certification of eligibility must be based on the
51 status of the applicant and the law in effect at the time of the
52 renewal application. The department shall issue a certificate of
53 eligibility for expunction to a person who is the subject of a
54 criminal history record if that person:

55 (a) Has obtained, and submitted to the department, a
56 written, certified statement from the appropriate state attorney
57 or statewide prosecutor which indicates:

58 1. That an indictment, information, or other charging
59 document was not filed or issued in the case.

60 2. That an indictment, information, or other charging
61 document, if filed or issued in the case, was dismissed or nolle
62 prosequi by the state attorney or statewide prosecutor, or was
63 dismissed by a court of competent jurisdiction, that a judgment
64 of acquittal was rendered by a judge, or that a verdict of not
65 guilty was rendered by a judge or jury and that none of the
66 charges related to the arrest or alleged criminal activity to
67 which the petition to expunge pertains resulted in a trial,
68 without regard to whether the outcome of the trial was other



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69 ~~than an adjudication of guilt.~~

70 3. That the criminal history record does not relate to a
71 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
72 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
73 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
74 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
75 or any violation specified as a predicate offense for
76 registration as a sexual predator pursuant to s. 775.21, without
77 regard to whether that offense alone is sufficient to require
78 such registration, or for registration as a sexual offender
79 pursuant to s. 943.0435, where the defendant was found guilty
80 of, or pled guilty or nolo contendere to any such offense, or
81 that the defendant, as a minor, was found to have committed, or
82 pled guilty or nolo contendere to committing, such an offense as
83 a delinquent act, without regard to whether adjudication was
84 withheld.

85 Section 3. This act shall take effect July 1, 2017.

86
87 ===== T I T L E A M E N D M E N T =====

88 And the title is amended as follows:

89 Delete everything before the enacting clause
90 and insert:

91 A bill to be entitled
92 An act relating to criminal history records;
93 prohibiting a person or entity engaged in publishing
94 or disseminating arrest booking photographs from
95 soliciting or accepting a fee or other payment to
96 remove, correct, or modify such photograph; requiring
97 a person or entity, within a specified timeframe, to



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98 remove an arrest booking photograph after receipt of a
99 written request; authorizing a person to bring a civil
100 action to enjoin such publishing of a photograph;
101 authorizing a court to impose a civil penalty and
102 award attorney fees and court costs; providing
103 applicability; amending s. 943.0585, F.S.; revising
104 the eligibility requirements for expunction of
105 criminal history records to include instances in which
106 a judgment of acquittal or a verdict of not guilty is
107 rendered; providing an effective date.