

2017118er

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.

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

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

2017118er

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

2017118er

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.

2017118er

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.