

1                                   A bill to be entitled  
 2           An act relating to destruction of records of wrongful  
 3           arrests of young persons; providing a short title;  
 4           creating s. 943.05815, F.S.; requiring the Department  
 5           of Law Enforcement to adopt a rule requiring the  
 6           destruction of any nonjudicial record of an arrest of  
 7           a person 21 years of age or younger at the time of an  
 8           arrest if the arrest was made contrary to law or by  
 9           mistake; providing duties of the department concerning  
 10          the destruction of such records; providing procedures  
 11          for seeking the destruction of such records; providing  
 12          for inadmissibility of and construction of  
 13          applications made under this section; providing an  
 14          effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18           Section 1.   This act may be cited as the "Eric Banks Act."

19           Section 2.   Section 943.05815, Florida Statutes, is created  
 20 to read:

21           943.05815 Young persons wrongfully arrested; destruction  
 22 of records.-

23           (1) Notwithstanding any law dealing generally with the  
 24 preservation and destruction of public records, the department  
 25 shall adopt a rule pursuant to chapter 120 requiring the

26 destruction of any nonjudicial record of an arrest of a person  
27 21 years of age or younger at the time of the arrest if the  
28 arrest was made contrary to law or by mistake. In addition to  
29 destroying all state records of such an arrest, the state is  
30 responsible for working with local and federal law enforcement  
31 agencies to ensure that all database information is cleared of  
32 all records of the arrest.

33 (2) (a) A law enforcement agency shall apply to the  
34 department in the manner prescribed by rule for the destruction  
35 of any nonjudicial record of an arrest of a person who was 21  
36 years of age or younger at the time of the arrest and who is  
37 subsequently determined by the agency or by the final order of a  
38 court of competent jurisdiction to have been arrested contrary  
39 to law or by mistake.

40 (b) If the agency declines to make an application under  
41 paragraph (a), the parent or legal guardian of the young person,  
42 or the young person if he or she is 18 years of age or older,  
43 may apply to the department in the manner prescribed by rule for  
44 the destruction of any nonjudicial record of an arrest alleged  
45 to have been made contrary to law or by mistake.

46 (3) An application for destruction of a nonjudicial record  
47 under this section shall include the date and time of the  
48 arrest, the name of the person arrested, and the crime or crimes  
49 charged. If the application is made by an arresting agency, it  
50 shall be on the submitting agency's letterhead, shall be signed

51 by the head of the submitting agency or his or her designee, and  
52 shall include the offender-based tracking system (OBTS) number.

53 (4) If the person was arrested on a warrant, capias, or  
54 pickup order, a request for an administrative destruction shall  
55 be made by the sheriff of the county in which the warrant,  
56 capias, or pickup order was issued, or his or her designee, or  
57 by the state attorney of the judicial circuit in which the  
58 warrant, capias, or pickup order was issued, or his or her  
59 designee.

60 (5) An application under this section is not admissible as  
61 evidence in any judicial or administrative proceeding and may  
62 not be construed in any way as an admission of liability in  
63 connection with an arrest.

64 Section 3. This act shall take effect July 1, 2018.