

House Bill No. 41

An act relating to administrative expunction of nonjudicial arrest records; amending s. 943.0581, F.S.; requiring the arresting law enforcement agency to apply to the Department of Law Enforcement for the administrative expunction of certain nonjudicial records of arrest; authorizing certain persons to apply directly to the department for administrative expunction in certain circumstances; requiring such persons to support such application with an endorsement; requiring an affidavit with specified information; providing that an application, endorsement, or affidavit may not be admitted into evidence or construed as an admission of liability; providing an effective date.

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

Section 1. Section 943.0581, Florida Statutes, is amended to read:

943.0581 Administrative expunction.—

(1) Notwithstanding any law dealing generally with the preservation and destruction of public records, the department may provide, by rule adopted pursuant to chapter 120, for the administrative expunction of any nonjudicial record of an arrest of a minor or an adult made contrary to law or by mistake.

(2) A law enforcement agency shall apply to the department in the manner prescribed by rule for the administrative expunction of any nonjudicial record of any arrest of a minor or an adult who is subsequently determined by the agency, at its discretion, or by the final order of a court of competent jurisdiction, to have been arrested contrary to law or by mistake.

(3) An adult or, in the case of a minor child, the parent or legal guardian of the minor child, may apply to the department in the manner prescribed by rule for the administrative expunction of any nonjudicial record of an arrest alleged to have been made contrary to law or by mistake, provided that the application is supported by the endorsement of the head of the arresting agency or the state attorney of the judicial circuit in which the arrest occurred.

(4) An application for administrative expunction shall include an affidavit executed by the chief of the law enforcement agency, sheriff, or department head of the state law enforcement agency in which the affiant verifies that he or she has reviewed the record of the arrest and that the arrest was contrary to law or was a mistake. The affidavit shall include the date and time of the arrest, the name of the arresting officer, the name of the person arrested, and the crime or crimes charged.

(5) No application, endorsement, or affidavit made under this section shall be admissible as evidence in any judicial or administrative proceeding

or otherwise be construed in any way as an admission of liability in connection with an arrest.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 7, 2006.

Filed in Office Secretary of State June 7, 2006.