

## CHAPTER 2017-130

### Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 118

An act relating to criminal history records; prohibiting a person or entity engaged in publishing or disseminating arrest booking photographs from soliciting or accepting a fee or other payment to remove a photograph; authorizing a person whose arrest booking photograph is published to request in writing that it be removed; requiring that the written request be sent by registered mail and include specified information; requiring a person or entity to remove an arrest booking photograph within a specified timeframe after receipt of a written request; authorizing a person to bring a civil action to enjoin such publishing of a photograph; authorizing a court to impose a civil penalty and award attorney fees and court costs; providing that refusal to remove an arrest booking photograph after written request constitutes an unfair or deceptive practice; providing applicability; creating s. 943.0586, F.S.; requiring the Criminal Justice Information Program to administratively seal the criminal history records of an adult or a minor upon notification by the clerk of the court under specified circumstances; providing effective dates, including a contingent effective date.

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

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

(2) A person whose arrest booking photograph is published or otherwise disseminated, or his or her legal representative, may make a request, in writing, for the removal of an arrest booking photograph to the registered agent of the person or entity who published or otherwise disseminated the photograph. The written request for removal of the arrest booking photograph must be sent by registered mail and include sufficient proof of identification of the person whose arrest booking photograph was published or otherwise disseminated and specific information identifying the arrest booking photograph that the written request is seeking to remove. Within 10 days of receipt of the written request for removal of the arrest booking photograph, the person or entity who published or otherwise disseminated the photograph shall remove the arrest booking photograph without charge.

(3) The person whose arrest booking photograph was published or otherwise disseminated in the publication or electronic medium may bring a civil action to enjoin the continued publication or dissemination of the photograph if the photograph is not removed within 10 calendar days after receipt of the written request for removal. The court may impose a civil

penalty of \$1,000 per day for noncompliance with an injunction and shall award reasonable attorney fees and court costs related to the issuance and enforcement of the injunction. Moneys recovered for civil penalties under this section shall be deposited into the General Revenue Fund.

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

(5) This section does not apply to any person or entity that publishes or disseminates information relating to arrest booking photographs unless the person or entity solicits or accepts payment to remove the photographs.

Section 2. Effective upon the same date that SB 450 or similar legislation takes effect, only if such legislation is adopted in the same legislative session or an extension thereof and becomes a law, section 943.0586, Florida Statutes, is created to read:

943.0586 Administrative sealing of criminal history records.—

(1) The Criminal Justice Information Program shall administratively seal the criminal history records pertaining to an arrest or incident of alleged criminal activity of an adult or a minor charged with a felony, misdemeanor, or violation of a comparable rule or ordinance by a state, county, municipal, or other law enforcement agency upon notification by the clerk of the court, pursuant to s. 943.052(2), that all the charges related to the arrest or incident of alleged criminal activity were declined to be filed by the state attorney or statewide prosecutor, were dismissed or nolle prosequi before trial, or resulted in a judgment of acquittal or a verdict of not guilty at trial and that all appeals by the prosecution have been exhausted or the time to file an appeal has expired.

Section 3. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2018.

Approved by the Governor June 16, 2017.

Filed in Office Secretary of State June 16, 2017.