



- (1) The verification of information provided by an applicant if federal law, including rules and regulations promulgated by a self-regulatory organization that has been created under federal law, requires the consideration of an applicant's criminal history for purposes of employment.
- (2) The verification of information provided to the La. Supreme Court in its capacity to govern the practice, procedure, and conduct of courts, admissions to the bar, the practice of law, the administration of courts, or supervision of judicial branch officers.

Proposed law provides that information relating to a conviction or other final disposition, and information relating to the arrest, indictment, or information leading to the conviction or other final disposition, will not be redacted if the request for information is made pursuant to a court order under either of the following circumstances:

- (1) In a case brought under state law relative to child custody or protection from abuse.
- (2) By an employer against whom a claim of civil liability has been brought arising out of its employment of a person whose criminal history record information is subject to limited access under proposed law, for purposes of defending against the claim.

Proposed law provides that the following is subject to limited access:

- (1) Criminal history record information pertaining to a conviction of a misdemeanor punishable by imprisonment of up to two years, if the person has been free for ten years from conviction for any offense punishable by imprisonment of at least one year, provided that the person has completed financial obligations of the sentence.
- (2) Criminal history record information, including a record of arrest, pertaining to charges that resulted in a final disposition other than a conviction.

Proposed law provides that limited access to records under proposed law cannot be granted with regard to any of the following offenses, or an attempt, conspiracy, or solicitation to commit any of the following offenses:

- (1) Present law relative to offenses against the person, except simple battery.
- (2) Present law relative to offenses affecting the family.
- (3) Present law relative to illegal carrying and discharge of weapons.
- (4) A sex offense as defined in present law.
- (5) Contributing to the delinquency of juveniles.
- (6) Cruelty to animals.

Proposed law further provides that limited access to records under proposed law cannot be granted with regard to records of a person who has been convicted of any of the following:

- (1) A felony.
- (2) Two or more offenses punishable by imprisonment of at least two years.
- (3) Four or more offenses punishable by imprisonment of at least one year.
- (4) Mutilating, disinterring human remains.
- (5) Sexual abuse of an animal.
- (6) Desecration of graves.
- (7) Obscenity.
- (8) Paramilitary organizations.
- (9) Contraband, when the contraband involves a dangerous weapon or other instrumentality used or intended for probable use to aid in an escape.
- (10) Failure to register and notify as a sex offender or child predator.

Proposed law provides that the La. Bureau of Criminal Identification and Information is to develop and maintain a central registry known as the Clean Slate Criminal Record Registry, which is to contain the information transmitted to the bureau pursuant to the provisions of proposed law. Proposed law further provides that the bureau is to accept electronically submitted information from any court or other criminal justice agency. Proposed law further provides that the bureau is to provide access to the information contained in the registry only in accordance with the provisions of proposed law. Proposed law further provides that the bureau may promulgate rules and regulations in accordance with present law (Administrative Procedure Act) to implement the provisions of proposed law relative to the receipt, storage, and dissemination of criminal history record information.

Proposed law provides that beginning on 1/1/20 and on the first day of each month thereafter, the clerk of court of each district, municipal, and traffic court is to transmit to the La. Bureau of Criminal Identification and Information the record of any conviction subject to limited access under proposed law for the previous month, for entry into the Clean Slate Criminal Record Registry. Proposed law further provides that beginning on 1/1/20 and on the first day of each month thereafter, each criminal justice agency is to transmit to the bureau the record of charges subject to limited access under proposed law, within 30 days after entry of the disposition and payment of any court ordered obligation, for entry into the Clean Slate Criminal Record Registry.

Proposed law provides that if the bureau determines through a validation process that a record

transmitted is not eligible for limited access or does not match data held in the bureau, the bureau must notify the clerk of court or criminal justice agency of its determination within 30 days of receiving the information. Proposed law further provides that within 30 days of receipt of the bureau's determination that a record is not eligible for limited access or does not match data held in the bureau, the clerk of court or criminal justice agency must remove from the list of eligible records any record for which the clerk of court or criminal justice agency received a notification of ineligibility or nonmatching bureau data.

Proposed law provides that each court is to issue monthly an order for limited access for any record for which no notification of ineligibility or nonmatching data was received.

Proposed law provides that a criminal history record that is the subject of an order for limited access under proposed law will be made available to a noncriminal justice agency or an individual only as provided for in proposed law.

Proposed law does not preclude a person from filing a petition for limited access under other provisions of proposed law that are available.

Proposed law provides that a person may file a petition for limited access in order to obtain an order for limited access, in addition to the limited access otherwise provided for by proposed law.

Proposed law provides that upon the petition of a person who has been free of conviction for a period of at least 10 years for any offense punishable by at least one year in prison, the district court for the judicial district in which the conviction occurred is to enter an order that criminal history record information pertaining to a conviction for an eligible misdemeanor can be disseminated only to a criminal justice agency or to the Dept. of Children and Family Services in the performance of any duty or function authorized by present law.

Proposed law provides that the petitioner cannot be required to pay any fee to the clerk of court, the La. Bureau of Criminal Identification and Information, sheriff, district attorney, or any other agency or individual to obtain an order for limited access, if a certification from the district attorney is submitted by the petitioner verifying that the petitioner has been free of any conviction for a period of at least ten years for any offense punishable by at least one year in prison.

Proposed law provides that the following are eligible for a court order for limited access pursuant to a petition filed under proposed law:

- (1) Criminal history record information pertaining to a conviction of a misdemeanor punishable by imprisonment of no more than two years, if the person has been free for ten years from conviction for any offense punishable by imprisonment of at least one year, provided that the person has completed any financial obligations of the sentence.
- (2) Criminal history record information, including a record of arrest, pertaining to charges that resulted in a final disposition other than a conviction.

Proposed law provides that an order for limited access under proposed law cannot be granted with regard to any of the following offenses, or an attempt, conspiracy, or solicitation to commit any of the following offenses:

- (1) Present law relative to offenses against the person, except simple battery.
- (2) Present law relative to offenses affecting the family.
- (3) Present law relative to illegal carrying and discharge of weapons.
- (4) A sex offense as defined in present law.
- (5) Contributing to the delinquency of juveniles.

Proposed law further provides that an order for limited access under proposed law cannot be granted to a person who:

- (1) Has been convicted of any grade of murder, kidnapping, or rape, aggravated arson, aggravated assault, or theft of property valued at \$500,000 or more.
- (2) Has been convicted within the previous 20 years of any of the following offenses if the offense is a felony punishable by imprisonment of at least seven years:
  - (a) Present law relative to offenses against the person, except simple battery.
  - (b) Present law relative to offenses affecting the family.
  - (c) Present law relative to illegal carrying and discharge of weapons.
  - (d) A sex offense as defined in present law.
- (3) Has been convicted within the previous 15 years of any of the following:
  - (a) Two or more offenses punishable by imprisonment of at least two years.
  - (b) Mutilating, disinterring human remains.
  - (c) Sexual abuse of an animal.
  - (d) Desecration of graves.
  - (e) Obscenity.
  - (f) Paramilitary organizations.

- (g) Contraband, when the contraband involves a dangerous weapon or other instrumentality used or intended for probable use to aid in an escape.
- (4) Has been convicted of four or more offenses each punishable by imprisonment of at least two years.

Proposed law provides that the court is to provide notice of the filing of a petition for limited access under proposed law to the district attorney within ten days of filing. Proposed law further provides that within 30 days of receipt of notice of the petition, the district attorney may file an objection to the petition. Proposed law further provides that if no objection is filed, the court may grant the petition if the requirements of proposed law have been met.

Proposed law provides that, upon the filing of a petition for limited access, the court is entitled to the petitioner's criminal history record information as maintained in the Clean Slate Criminal Record Registry, as a means of verifying that the information that is the subject of the petition is eligible for an order for limited access. Proposed law further provides that the court may also verify that the information that is the subject of the petition is eligible for limited access by other means it deems appropriate.

Proposed law provides that notice of an order for limited access must be submitted promptly to the La. Bureau of Criminal Identification and Information for entry in the Clean Slate Criminal Record Registry. Proposed law further provides that the bureau is to notify promptly all criminal justice agencies possessing criminal history record information subject to the limited access order that access to the information has been limited by court order.

Proposed law provides that, upon petition of the district attorney to the court with jurisdiction where a conviction occurred, and with notice to the defendant and opportunity to be heard, the court is to vacate an order for limited access if it determines that the order was erroneously entered. Proposed law further provides that, upon a defendant's conviction of a misdemeanor or felony offense and motion of the district attorney, the court is to enter an order vacating any prior order for limited access pertaining to a record of the defendant, except for an order for limited access entered on the ground of a final disposition other than a conviction. Proposed law further provides that an order to vacate is to be transmitted to the La. Bureau of Criminal Identification and Information for entry into the Clean Slate Criminal Record Registry.

Proposed law provides that every criminal justice agency must maintain complete and accurate criminal history record information and report the information at the times and in the manner required by the provisions of proposed law. Proposed law further provides that any criminal justice agency that disseminates criminal history record information must indicate to the recipient that the information disseminated is only that information contained in the agency's own file and the date of the last entry.

Proposed law provides that each criminal justice agency must establish reasonable procedures for the dissemination of criminal history record information in accordance with the provisions of proposed law. Proposed law further provides that each agency is to include a list of all persons and

entities to whom it has disseminated the criminal history record information, including the date and purpose for which the criminal history record information was disseminated, which list is to be maintained separate from the criminal history record itself.

Proposed law provides that, except if requested or required by a criminal justice agency, or if disclosure to a noncriminal justice agency is authorized or required by proposed law, no person can be requested or required to disclose information relative to the person's criminal history record that is subject to limited access under proposed law. Proposed law further provides that a person requested or required to provide information in violation of proposed law may respond as if the arrest, indictment, or offense did not occur. Proposed law does not apply if federal law, including rules and regulations promulgated by a self-regulatory organization that has been created under federal law, requires the consideration of an applicant's criminal history for purposes of employment.

Proposed law provides that a record subject to limited access under proposed law cannot be considered a conviction that would prohibit the employment of a person under state present law, or under federal law that prohibits employment based on a state conviction, to the extent permitted by federal law.

Proposed law provides that when an employer receives information that is part of an applicant's criminal history record, the employer may use that information for determining whether or not to hire the applicant only in accordance with proposed law. Proposed law further provides that the convictions of an employment applicant may be considered by the employer only to the extent to which the convictions relate to the applicant's suitability for employment in the position for which the applicant has applied. Proposed law further provides that the employer must notify the applicant in writing if the decision not to hire the applicant is based in whole or in part on criminal history record information.

Proposed law provides that a board, commission, or department, when determining eligibility for licensing, certification, registration, or permission to engage in a trade, profession, or occupation, may consider an applicant's convictions, except that the convictions do not in and of themselves preclude the issuance of a license, certificate, registration, or permit.

Proposed law provides that the following information shall not be used in consideration of an application for a license, certificate, registration, or permit:

- (1) Records of arrest if there is no conviction based on the arrest.
- (2) Convictions that have been expunged.
- (3) Convictions for which the person has received a pardon from the governor.
- (4) Convictions that do not relate to the applicant's suitability for the license, certificate, registration, or permit.

Proposed law provides that a board, commission, or department that is authorized by present law to

license, certify, register, or permit the practice of trades, occupations, or professions may refuse to grant or renew, or may suspend or revoke, any license, certificate, registration, or permit for the following causes:

- (1) The applicant or licensee has been convicted of a felony.
- (2) The applicant or licensee has been convicted of a misdemeanor that relates to the trade, occupation, or profession for which the license, certificate, registration, or permit is sought or has been granted.

Proposed law provides that the board, commission, or department must notify the person in writing of the reasons for a decision that prohibits the applicant from practicing the trade, occupation, or profession, if that decision is based in whole or part on conviction of any crime determined by a review of criminal history record information obtained by the board, commission, or department pursuant to present law.

Proposed law provides that an employer who employs a person whose criminal history record is subject to limited access is immune from liability for any claim arising out of the misconduct of the person, if the misconduct relates to the portion of the criminal history record that is subject to limited access.

Proposed law provides the following definitions for purposes of proposed law:

- (1) "Conviction" means any disposition of charges adverse to the defendant, including a verdict of guilty, a plea of guilty, deferred adjudication, and adjudication withheld for the perpetration or attempted perpetration of or conspiracy to commit an offense involving arson. "Conviction" does not include a decision not to prosecute, a dismissal, or an acquittal, except when the acquittal is due to a finding of not guilty by reason of insanity and the person was committed. However, a dismissal entered after a period of probation, suspension, or deferral of sentence is included in the definition of "conviction".
- (2) "Criminal history record" or "criminal history record information" means information collected by criminal justice agencies on persons consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition thereof, including sentencing, correctional supervision, and release. These terms include the following:
  - (a) A description or notation of any arrests, any formal criminal charges, and the dispositions of those criminal charges.
  - (b) A photograph or photographs of the person taken pursuant to an arrest or other involvement in the criminal justice system.
  - (c) Personal identifying information of a person displayed in conjunction with any other record of the person's involvement in the criminal justice system.

However, these terms do not include records or information concerning juvenile criminal conduct, unless the juvenile has been adjudicated as an adult, and intelligence or investigative information, treatment information, stolen property information, missing person information, employment history information, personal history information, nor any personal identifying information that does not indicate involvement of the person in the criminal justice system.

- (3) "Criminal justice agency" means any court with criminal jurisdiction, or any other governmental agency specifically authorized by law to perform as its principal function the administration of criminal justice and which allocates a substantial portion of its annual budget to this function, and that either:
  - (a) Has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation, or release of persons suspected, charged, or convicted of a crime.
  - (b) Collects, stores, processes, transmits, or disseminates criminal history record or crime information.
- (4) "Criminal justice system" means that body of agencies at the federal, state, or local level that may legally arrest, detain, prosecute, adjudicate, treat, supervise, rehabilitate or release, or collect, store, process, transmit, or disseminate criminal history record information.
- (5) "Disposition" means the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.
- (6) "Intelligence information" includes information related to the habits, practices, characteristics, possessions, associations, or financial status of any person that is compiled in an effort to anticipate, prevent, monitor, investigate, or prosecute criminal activity.
- (7) "Investigative information" means information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal acts.
- (8) "Personal identifying information" means information that alone or in conjunction with other information identifies a person, including a person's name, address, date of birth, photograph, and social security number or other government-issued identification number.
- (9) "Treatment information" means information concerning medical, psychiatric, psychological, or other rehabilitative treatment provided, suggested, or prescribed for any person charged with or convicted of an offense.

Proposed law does not apply to the following:

- (1) Information concerning a juvenile, unless the juvenile has been adjudicated as an adult.

- (2) Intelligence or investigative information, treatment information, including medical and psychiatric information, stolen property information, missing person information, employment history information, personal history information, nor any identifying information that does not indicate involvement of the person in the criminal justice system.

Effective January 1, 2020.

(Adds R.S. 44:68 - 68.13)