

2022 Regular Session

HOUSE BILL NO. 707

BY REPRESENTATIVES DUPLESSIS, BOYD, BRASS, BRYANT, CARPENTER, FISHER, FREEMAN, FREIBERG, GAINES, GREEN, HUGHES, JEFFERSON, JENKINS, JORDAN, LAFLEUR, LANDRY, LARVADAIN, LYONS, MARCELLE, MARINO, DUSTIN MILLER, NEWELL, PHELPS, PIERRE, SELDERS, AND WILLARD

CRIMINAL/RECORDS: Provides relative to the expungement of criminal records

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 973(E) and to enact Code of
3 Criminal Procedure Article 985.2, relative to expungement of records; to provide
4 relative to automated expungement of certain criminal records; to require the
5 Louisiana Bureau of Criminal Identification and Information to send certain records
6 to the Louisiana Supreme Court Case Management Information System; to provide
7 relative to duties of the clerks of district courts; to authorize the adoption of rules and
8 regulations by state police and the supreme court; to provide relative to the effects
9 of expunged records of arrest and conviction; to provide that no person shall have a
10 cause of action resulting from the omission of their records for automated
11 expungement; to provide for an effective date; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Code of Criminal Procedure Article 973(E) is hereby amended and
14 reenacted and Code of Criminal Procedure Article 985.2 is hereby enacted to read as
15 follows:

16 Art. 973. Effect of expunged record of arrest or conviction

17 * * *

18 E. Nothing in this Article shall be construed to limit or impair in any way the
19 subsequent use of any expunged record of any arrests or convictions by a judge.

1 magistrate, commissioner, law enforcement agency, criminal justice agency, or
2 prosecutor including its use as a predicate offense, for the purposes of the Habitual
3 Offender Law, setting bail, sentencing, or as otherwise authorized by law.

4 * * *

5 Art. 985.2. Automated expungement of qualifying records

6 A. The Louisiana Bureau of Criminal Identification and Information shall
7 identify within its criminal repository database all records with final dispositions for
8 individuals eligible for an expungement pursuant to the provisions of Articles 976,
9 977, and 978.

10 B. Beginning August 1, 2024, and every thirty days thereafter, the Louisiana
11 Bureau of Criminal Identification and Information shall send the records with final
12 dispositions for individuals eligible for an expungement pursuant to the provisions
13 of Articles 976, 977, and 978 to the Louisiana Supreme Court Case Management
14 Information System.

15 C. Within thirty days of receipt of records from the Louisiana Bureau of
16 Criminal Identification and Information, the Louisiana Supreme Court Case
17 Management Information System shall send notice by United States mail or
18 electronically of all records identified pursuant to Paragraph A of this Article to be
19 expunged by automation to the clerks of the district courts of Louisiana. The clerks
20 of the district courts of Louisiana shall verify and identify such records as expunged
21 by automation. If a clerk of a district court is unable to verify and identify any
22 record identified for automatic expungement, the clerk shall notify the Louisiana
23 Supreme Court Case Management Information System within thirty days of receipt
24 of the notice required pursuant to the provisions of this Paragraph, who shall then
25 notify the Louisiana Bureau of Criminal Identification and Information that the
26 record is not expunged by automation.

27 D. The clerks of the district courts of Louisiana shall send notice by United
28 States mail or electronically of all records expunged by automation to the district
29 attorney of the parish of the person's conviction, the sheriff of the parish of the

1 person's conviction, and the arresting agency. The district attorney, sheriff, and
2 arresting agency shall acknowledge such records as expunged by automation
3 according to Code of Criminal Procedure Article 973. The clerks of the district
4 courts of Louisiana shall also send notice by United States mail or electronically of
5 all records expunged by automation to the Louisiana Supreme Court Case
6 Management Information System, which shall mark the records as expunged by
7 automation and send notice by United States mail or electronically of all records
8 expunged by automation to the Louisiana Bureau of Criminal Identification and
9 Information. The Louisiana Bureau of Criminal Identification and Information shall
10 mark the records as expunged by automation. Nothing in this Paragraph shall be
11 construed to require the arresting agency, booking agency, or the district attorney to
12 manually segregate or sequester upon acknowledging or identifying such records.

13 E. The Department of Public Safety and Corrections, office of state police,
14 is hereby authorized to adopt and promulgate rules and regulations in accordance
15 with the Administrative Procedure Act to carry out the provisions of this Article for
16 criminal records in districts courts of Louisiana which date back to January 1, 2000.

17 F. Nothing in this Article shall prevent an otherwise eligible individual from
18 obtaining an expungement pursuant to any provision in this Title. An individual
19 eligible for an automated expungement under this Article shall not have a cause of
20 action for any damages resulting from the omission of their records in the process
21 provided by this Article.

22 Section 2. The legislature hereby recognizes the judicial power vested in the state
23 supreme court pursuant to Article V, Section 1 of the Constitution of Louisiana and,
24 accordingly, urges and requests the supreme court to adopt rules to carry out the provisions
25 of this Act.

26 Section 3. Notwithstanding any provision of law to the contrary, no later than June
27 30, 2024, the legislature shall appropriate funding necessary for the implementation of this
28 Act to the Louisiana Commission on Law Enforcement for distribution to each sheriff in the

1 state in proportion to the number of automatic expungements submitted to the sheriff by the
2 clerks of court pursuant to the provisions of this Act.

3 Section 4. The provisions of Sections 1, 2, and 3 of this Act shall become effective
4 if an Act or Acts of the Legislature of Louisiana originating in the 2022 Regular Session
5 containing specific appropriations of monies for the office of state police, the Louisiana
6 Supreme Court, and the Louisiana Clerks' Remote Access Authority for the implementation
7 of the provisions of this Act becomes effective. If such appropriations are made in a single
8 Act, Sections 1, 2, and 3 of this Act shall become effective when the Act that made the
9 appropriations becomes effective. If such appropriations are made in different Acts,
10 Sections 1, 2, and 3 of this Act shall become effective when the Act having the later
11 effective date becomes effective.

12 Section 5. The provisions of this Section and Section 4 of this Act shall become
13 effective upon signature of this Act by the governor or, if not signed by the governor, upon
14 expiration of the time for bills to become law without signature by the governor, as provided
15 by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the
16 governor and subsequently approved by the legislature, the provisions of this Section and
17 Section 4 of this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 707 Re-Reengrossed

2022 Regular Session

Duplessis

Abstract: Provides for automated expungement of certain qualifying criminal records.

Present law provides for the expungement of records of arrest and misdemeanor and felony convictions in certain circumstances.

Proposed law provides for automated expungement of qualifying records. Requires the La. Bureau of Criminal Identification and Information (bureau) to identify within its criminal repository database all records with final dispositions for individuals eligible for an expungement pursuant to the provisions of present law (C.Cr.P. Arts. 976, 977, and 978).

Proposed law provides that on Aug. 1, 2024, and every 30 days thereafter, the bureau shall send the records with final dispositions for individuals eligible for an expungement pursuant to present law to the La. Supreme Court Case Management Information System.

Proposed law requires the La. Supreme Court Case Management Information System, within 30 days of receipt of records from the bureau, to send notice by U.S. mail or electronically of all records expunged by automation to the clerks of the district courts. Requires the clerks to verify and identify such records as expunged by automation. Further provides that if a clerk is unable to verify and identify any record identified for automatic expungement pursuant to proposed law, the clerk must notify the La. Supreme Court Case Management Information System within 30 days of receipt of the original notice pursuant to proposed law. Further requires the Supreme Court to notify the La. Bureau of Criminal Identification and Information that the record has not been expunged by automation.

Proposed law requires the clerks of the district courts to send notice by U.S. mail or electronically of all records expunged by automation to the district attorney of the parish of the person's conviction, the sheriff of the parish of the person's conviction, and the arresting agency. Requires the district attorney, sheriff, and arresting agency to acknowledge that such records have been expunged by automation pursuant to present law (C.Cr.P. Art. 973). Further requires the clerks of the district courts to send notice by U.S. mail or electronically of all records expunged by automation to the La. Supreme Court Case Management Information System, which shall mark the records as expunged and notify the bureau by U.S. mail or electronically of all such expunged records. Requires the bureau to mark such records as expunged by automation.

Provides that proposed law shall not be construed to require the arresting agency, booking agency, or the district attorney to manually segregate or sequester upon acknowledging or identifying such records.

Proposed law authorizes the office of state police to adopt and promulgate rules and regulations to carry out the provisions of proposed law for criminal records in district courts which date back to Jan. 1, 2000. Further urges and requests the supreme court to adopt rules to carry out the provisions of proposed law.

Present law (C.Cr.P. Art. 973(E)) provides that present law shall not be construed to limit or impair in any way the subsequent use of any expunged record of any arrests or convictions by a law enforcement agency, criminal justice agency, or prosecutor including its use as a predicate offense, for the purpose of the Habitual Offender Law, or as otherwise authorized by law.

Proposed law amends present law to include that the effect of an expunged record shall not be construed to limit or impair the subsequent use of any expunged record of any arrests or convictions by a judge, magistrate, or commissioner for the purpose of setting bail or sentencing.

Require the legislature, no later than June 30, 2024, to appropriate funding necessary for the implementation of proposed law to the La. Commission on Law Enforcement for distribution to each sheriff in the state in proportion to the number of automatic expungements submitted to the sheriff by the clerks of court pursuant to proposed law.

Effective if an Act or Acts that originated in the 2022 R.S. of the Legislature make specific appropriations to the office of state police, the La. Supreme Court, and the La. Clerks' Remote Access Authority for the implementation of proposed law. If such appropriations are contained in a single Act, proposed law becomes effective when the Act that made the appropriations becomes effective. If such appropriations are made in different Acts, proposed law becomes effective when the Act having the later effective date becomes effective.

(Amends C.Cr.P. Art. 973(E); Adds C.Cr.P. Art. 985.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Require the La. Supreme Court Case Management Information System to send notice by U.S. mail or electronically of all records identified pursuant to proposed law to be expunged to the clerks of the district courts.
2. Remove the requirement for the bureau to identify records as expunged by automation and require the clerks of the district courts to verify and identify such records.
3. Require the clerks of the district courts to also send notice by U.S. mail or electronically of all records expunged by automation to the La. Supreme Court Case Management and Information System and the bureau.
4. Require the La. Supreme Court Case Management and Information System and the bureau to identify records as expunged by automation.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Add provision requiring a clerk to take certain action when unable to verify and identify a record identified for automatic expungement.
2. Remove requirement that the district attorney identify records as expunged by automation.
3. Add requirement that the district attorney acknowledge records as expunged by automation.
4. Make technical changes.
5. Add provision urging and requesting the La. Supreme Court to adopt rules to carry out the provisions of proposed law.
6. Add provision making proposed law effective if and when an Act or Acts originating in the 2022 Regular Session of the legislature making specific appropriations to the office of state police and the La. Supreme Court for the implementation of proposed law becomes effective.

The House Floor Amendments to the reengrossed bill:

1. Require the legislature to appropriate funding necessary for the implementation of proposed law to the La. Commission on Law Enforcement for distribution to each sheriff in the state in proportion to the number of automatic expungements submitted to the sheriff by the clerks of court.
2. Provide that proposed law becomes effective if an Act or Acts of the Legislature originating in the 2022 R.S. contains an appropriation for the La. Clerks' Remote Access Authority.
3. Remove proposed law which required the sheriff and arresting agency to identify the records as expunged by automation.
4. Require the district attorney, sheriff, and arresting agency to acknowledge certain records as expunged by automation.

5. Amend present law (C.Cr.P. Art. 973(E)) to provide that the effect of an expunged record of arrest or conviction shall not limit or impair the subsequent use of any expunged record of any arrests or convictions by a judge, magistrate, or commissioner for the purpose of setting bail or sentencing.
6. Provide that proposed law does not require the arresting agency, booking agency, or the district attorney to manually segregate or sequester upon acknowledging or identifying certain records.