

2021 Regular Session

HOUSE BILL NO. 604

BY REPRESENTATIVE JAMES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/RECORDS: Provides relative to expungement of records

1 AN ACT
2 To amend and reenact Code of Criminal Procedure Articles 971(7), 974(B) and (C), 976,
3 977(A)(introductory paragraph) and (2), (B), and (C)(introductory paragraph) and
4 (1); 978(A)(introductory paragraph) and (2), (B)(introductory paragraph), (C), and
5 (E)(1), 979(section heading), 980(section heading), 981, 982(section heading),
6 983(I), 985, 985.1(C), 986(A), 987, and 992, to enact Code of Criminal Procedure
7 Articles 971(8), 972(5) through (14), 976.1, 976.2, 977(A)(3), 977.1, 977.2, 978.1,
8 981.1, 981.2, 982.1, and 983(J), and to repeal Code of Criminal Procedure Articles
9 978(E)(2), 984, and 996, relative to expungement; to provide relative to legislative
10 findings; to provide for definitions; to provide relative to the dissemination of
11 expunged records by third parties and court order; to provide relative to petition-
12 based expungement of a record of arrest that did not result in conviction; to provide
13 relative to petition-based expungement of a record of arrest and conviction of a
14 misdemeanor and felony offenses; to provide relative to service of a petition-based
15 motion to expunge a record; to provide relative to petition-based contradictory
16 hearings; to provide relative a judgement granting a petition-based motion to
17 expunge a record of arrest or conviction; to provide relative to service of order and
18 judgement of petition-based expungement; to provide relative to expungement by
19 redaction of records with references to multiple individuals; to provide relative to
20 interim petition-based motion to expunge a felony arrest; to provide relative to forms
21 the expungement of records; to provide relative to government-initiated

1 expungement of a fingerprinted record of arrest that did not result in conviction; to
 2 provide relative to government-initiated expungements; to provide relative to
 3 government-initiated expungement of a fingerprinted record of arrest and conviction
 4 of a misdemeanor and felony offenses; to provide relative to certificate of
 5 compliance confirming a government-initiated expungement; to provide relative to
 6 the transmission of data to complete, serve, and confirm a government-initiated
 7 expungement; to provide relative to the costs of a petition-based expungement; to
 8 provide relative interim petition-based motions to expunge a felony arrest from
 9 criminal history; to provide relative to the requirements for expungement of records
 10 involving the operation of a motor vehicle while intoxicated; to provide relative for
 11 effectiveness; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Code of Criminal Procedure Articles 971(7), 974(B) and (C), 979(section
 14 heading), 980(section heading), 981, 982(section heading), 983(I), 985, 985.1(C), 986(A),
 15 987, and 992 are hereby amended and reenacted and Code of Criminal Procedure Articles
 16 971(8), 972(5) through (14), 976.2, 977.2, 978.1, and 983(J) are hereby enacted to read as
 17 follows:

18 Art. 971. Legislative findings

19 The legislature hereby finds and declares the following:

20 * * *

21 (7) Automatic, government-initiated, criminal record-clearing removes the
 22 burden of filing a court petition, is intended to reduce recidivism, and will benefit the
 23 economy.

24 (8) In balancing the legitimate needs of law enforcement agencies and the
 25 desire to afford employment opportunities to all Louisiana citizens, the Louisiana
 26 Legislature enacts the provisions of this Title within the Code of Criminal Procedure.

27 Art. 972. Definitions

28 As used in this Title:

29 * * *

1 (5) "Arrest date" means the date of citation, summons, or booking date for
2 a state misdemeanor or felony charge.

3 (6) "Case Management Information System" (CMIS) is the system operated
4 by the Louisiana Supreme Court to receive and maintain criminal records related to
5 a defendant's criminal record and criminal court case.

6 (7) "Certificate of Compliance" means a document produced upon request
7 by the Louisiana Bureau of Criminal Identification and Information after a
8 government-initiated expungement has been fully processed, as provided in Article
9 981.1.

10 (8) "Criminal repository" means the criminal history record information
11 system as established and maintained by R.S. 15:578 by the Louisiana Bureau of
12 Criminal Identification and Information.

13 (9) "Fingerprinted record of arrest" means a fingerprint or biometric record
14 identifying a person including but not limited to the Automatic Fingerprint
15 Identification System (AFIS) that is transferred to the criminal history repository
16 operated by the Louisiana Bureau of Criminal Identification and Information.

17 (10) "Government-initiated expungement" means that the eligible record
18 shall be expunged through the automated process described in this Title.

19 (11) "Non-fingerprinted record of arrest" means a record or portion of a
20 record of citation, summons, or arrest for non-traffic offenses as provided for in Title
21 32 of the Louisiana Revised Statutes of 1950 that does not create or result in a
22 fingerprinted or biometric record transferred to the criminal repository operated by
23 the Louisiana Bureau of Criminal Identification and Information.

24 (12) "Petition-based expungement" means a manual paper based process
25 initiated by an attorney or person with a record who is eligible for an expungement
26 and files the motion and paperwork as required by this Title.

27 (13) "Sentence date" means the date upon which a judge or jury imposes a
28 sentence for the disposition of charges adverse to the defendant, including a plea of

1 guilty or nolo contendere by the defendant, or the finding of guilt by a judge or jury,
2 including any sentence of deferred adjudication.

3 (14) "Sentence duration" means the length of time that a person convicted
4 of a felony receives from the judge or jury at the time of sentencing for any sentence,
5 deferred adjudication, or period of probation or parole based on the felony
6 conviction.

7 * * *

8 Art. 974. Dissemination of expunged records by third parties; court order

9 * * *

10 B. ~~The~~ A person obtaining ~~the~~ a petition-based expungement shall send
11 notice of the order of expungement by certified or registered mail with return receipt
12 requested and a certified copy of the order of expungement.

13 C. A private third-party entity that publicly disseminates criminal history
14 information in violation of this Article after having received notice as provided for
15 in Paragraph B of this Article or through a notification process established by the
16 courts, may be liable for any actual damages, court costs, and attorney fees that are
17 incurred by the person whose criminal history was disseminated.

18 * * *

19 Art. 976.2. Petition-based expungement of a record of arrest that did not result in
20 conviction

21 A. A person may file a motion to expunge a record of his arrest for a felony
22 or misdemeanor offense that did not result in a conviction if any of the following
23 apply:

24 (1) The person was not prosecuted for the offense for which he was arrested,
25 and the limitations on the institution of prosecution have barred the prosecution for
26 that offense.

27 (2) The district attorney for any reason declined to prosecute any offense
28 arising out of that arrest, including the reason that the person successfully completed
29 a pretrial diversion program.

1 conviction, and the person has not been convicted of any other criminal offense
2 during the ten-year period, and has no criminal charge pending against him. The
3 motion filed pursuant to this Subparagraph shall include a certification obtained from
4 the district attorney which verifies that, to his knowledge, the applicant has no
5 convictions during the ten-year period and no pending charges under a bill of
6 information or indictment.

7 (3) The person is entitled to a first offender pardon for the offense pursuant
8 to Article IV, Section 5(E)(1) of the Constitution of Louisiana, provided that the
9 offense is not defined as a crime of violence pursuant to R.S. 14:2(B) or a sex
10 offense pursuant to R.S. 15:541.

11 (4) A person may file a motion to expunge his record of arrest if the criminal
12 repository or Case Management Information System did not complete an
13 expungement under Article 977 or 977.1 and the person is otherwise eligible under
14 this Article.

15 B. No expungement shall be granted nor shall a person be permitted to file
16 a motion to expunge the record of arrest and conviction of a felony offense if the
17 person was convicted of the commission or attempted commission of any of the
18 following offenses:

19 (1) A crime of violence as defined by or enumerated in R.S. 14:2(B), unless
20 otherwise authorized in Paragraph D of this Article.

21 (2)(a) Notwithstanding any provision of Article 893, a sex offense or a
22 criminal offense against a victim who is a minor as each term is defined by R.S.
23 15:541, or any offense which occurred prior to June 18, 1992, that would be defined
24 as a sex offense or a criminal offense against a victim who is a minor had it occurred
25 on or after June 18, 1992.

26 (b) Any person who was convicted of carnal knowledge of a juvenile (R.S.
27 14:80) prior to August 15, 2001, is eligible for an expungement pursuant to the
28 provisions of this Title if the offense for which the offender was convicted would be
29 defined as misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the

1 offender been convicted on or after August 15, 2001. The burden is on the mover
2 to establish that the elements of the offense of conviction are equivalent to the
3 current definition of misdemeanor carnal knowledge of a juvenile as defined by R.S.
4 14:80.1. A copy of the order waiving the sex offender registration and notification
5 requirements issued pursuant to the provisions of R.S. 15:542(F) shall be sufficient
6 to meet this burden.

7 (3) A violation of the Uniform Controlled Dangerous Substances Law,
8 except for any of the following which may be expunged pursuant to the provisions
9 of this Title:

10 (a) A conviction for possession of a controlled dangerous substance as
11 provided for in R.S. 40:966(C), 967(C), 968(C), or 969(C), or 970(C).

12 (b) A conviction for possession of a controlled dangerous substance with the
13 intent to distribute.

14 (c) A conviction for a violation of the Uniform Controlled Dangerous
15 Substances Law which is punishable by a term of imprisonment of not more than
16 five years.

17 (d) A conviction for a violation of the Uniform Controlled Dangerous
18 Substances Law which may be expunged pursuant to Article 893(E).

19 (e) A conviction for a violation of the Uniform Controlled Dangerous
20 Substances Law for which the person is entitled to a first offender pardon pursuant
21 to Article IV, Section 5(E)(1) of the Constitution of Louisiana.

22 (4) The conviction was for domestic abuse battery.

23 C. The motion to expunge a record of arrest and conviction of a felony
24 offense shall be served pursuant to the provisions of Article 979.

25 D.(1) Notwithstanding any other provision of law to the contrary, after a
26 contradictory hearing, the court may order the expungement of the arrest and
27 conviction records of a person pertaining to a conviction of aggravated battery,
28 second degree battery, aggravated criminal damage to property, simple robbery,

1 purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the
2 following conditions are proven by the petitioner:

3 (a) More than ten years have elapsed since the person completed any
4 sentence, deferred adjudication, or period of probation or parole based on the felony
5 conviction.

6 (b) The person has not been convicted of any other criminal offense during
7 the ten-year period.

8 (c) The person has no criminal charge pending against him.

9 (2) The motion filed pursuant to this Paragraph shall include a certification
10 from the district attorney which verifies that, to his knowledge, the applicant has no
11 convictions during the ten-year period and no pending charges under a bill of
12 information or indictment. The motion shall be heard by contradictory hearing as
13 provided by Article 980.

14 * * *

15 Art. 979. Service of petition-based motion to expunge a record

16 * * *

17 Art. 980. ~~Contradictory~~ Petition-based contradictory hearing

18 * * *

19 Art. 981. Judgment granting petition-based motion to expunge a record of arrest or
20 conviction; execution

21 A judgment ordering a petition-based expungement of a record of arrest or
22 of conviction of a misdemeanor or felony offense shall be served as provided for in
23 Article 982 of this Code. The judgment shall not affect any persons or other entities
24 set forth in Article 979 or 982 of this Code who have not been served with the
25 motion and judgment ordering the expungement of a record.

26 * * *

27 Art. 982. Service of order and judgment of petition-based expungement

28 * * *

1 Art. 983. Costs of a petition-based expungement of a record; fees; collection;
2 exemptions; disbursements

3 * * *

4 I. ~~Notwithstanding any provision of law to the contrary, an applicant for the~~
5 ~~expungement of a record, other than as provided in Paragraphs F and G of this~~
6 ~~Article, may proceed in forma pauperis in accordance with the provisions of Code~~
7 ~~of Civil Procedure Article 5181 et seq. A person shall not be charged any costs for~~
8 a government-initiated expungement of their records.

9 J. This Article shall cease to be effective on August 1, 2025.

10 * * *

11 Art. 985. Expungement by redaction of records with references to multiple
12 individuals

13 A. If a record includes the name of more than one individual and one or
14 more of the individuals is entitled to an expungement of an arrest or conviction
15 pursuant to the provisions of this Title, any individual entitled to an expungement
16 may petition the court to have records related to the arrest or conviction of the
17 individual expunged by redaction, or have their records expunged by the
18 government-initiated process described in this Title.

19 B. If the court grants the expungement by redaction or the government-
20 initiated process properly transmits the data described in Article 981.1 or 981.2 to
21 all parties with the record, the name of the individual and all other identifying
22 information regarding the individual granted the expungement by redaction shall be
23 redacted from all records regarding the arrest and conviction. The redacted records
24 shall be available for public access.

25 C. The clerk of court shall not be liable for any damages resulting to any
26 person or entity as a consequence of expunging or redacting or for the failure to
27 expunge or redact any record where the expungement order or transmittal of data
28 described in Article 981.1 or 981.2 does not specifically identify all locations of the
29 records to be expunged or specify the information to be redacted.

1 Art. 985.1. Interim petition-based motion to expunge a felony arrest from criminal
2 history in certain cases resulting in a misdemeanor conviction

3 * * *

4 C. Except as provided in Paragraph D of this Article, an interim motion to
5 expunge a felony arrest from criminal history shall follow the same procedures ~~and~~
6 ~~fees~~ established pursuant to the provisions of Article 979 et seq of this Code.

7 * * *

8 Art. 986. Forms for the expungement of records

9 A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,
10 994, and 995 of this Code shall be used for filing motions to expunge a ~~record of an~~
11 ~~arrest which did not result in a conviction, for the expungement of a record of arrest~~
12 ~~and conviction of a misdemeanor or felony offense, or for an interim motion to~~
13 ~~expunge a felony offense which resulted in a misdemeanor conviction~~ petition-based
14 record of arrest or conviction as provided by this Title.

15 * * *

16 Art. 987. Motion to set aside conviction and dismiss prosecution; rule to show
17 cause; order of dismissal forms to be used

18 " **STATE OF LOUISIANA**
19 **JUDICIAL DISTRICT FOR THE PARISH OF**
20 _____
21 **No.:** _____ **Division:** " _____ "
22 **State of Louisiana**
23 **vs.**
24 _____

25 **MOTION TO SET ASIDE CONVICTION AND**
26 **DISMISS PROSECUTION**

27 NOW INTO HONORABLE COURT, comes

28 Defendant, OR

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2

Signature of Mover/Defendant

3
4

Mover/Defendant Name

5
6

Address

7
8

City, State, ZIP Code

9
10

Telephone Number

11

STATE OF LOUISIANA

12

JUDICIAL DISTRICT FOR THE PARISH OF

13

14

No.: _____

Division: " _____ "

15

State of Louisiana

16

vs.

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RULE TO SHOW CAUSE

19

IT IS HEREBY ORDERED, that the District Attorney show cause on the _____

20

day of _____, 20 _____, at _____ o'clock __m why the foregoing

21

motion should not be granted.

22

THUS ORDERED AND SIGNED this _____ day of _____, 20 _____

23

at _____, Louisiana, _____.

24

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JUDGE

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PLEASE SERVE:

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1. District Attorney: _____

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2. Attorney for Defendant and/or Defendant _____

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STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF

No.: _____ **Division: " _____ "**

State of Louisiana

vs.

ORDER OF DISMISSAL

Considering the Motion to Set Aside Conviction and Dismiss Prosecution, the hearing conducted on the representation of the State of Louisiana of its consent hereto, and that there is no opposition for any good cause appearing herein;

IT IS ORDERED, ADJUDGED AND DECREED that this conviction is set aside and the prosecution dismissed for purposes of expungement.

THUS ORDERED AND SIGNED this _____ day of _____, 20__ at _____, Louisiana.

JUDGE

PLEASE SERVE:

1. District Attorney: _____
2. Attorney for Defendant and/or Defendant _____
3. Louisiana Bureau of Criminal Identification and Information: Louisiana State Police, Superintendent of Records, 7919 Independence Boulevard, Baton Rouge, Louisiana 70806"

* * *

Art. 992. Order of expungement form to be used

STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF

No.: _____ **Division: " _____ "**

State of Louisiana

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vs.

ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD

Considering the Motion for Expungement

- The hearing conducted and evidence adduced herein, OR
- Affidavits of No Opposition filed,

IT IS ORDERED, ADJUDGED AND DECREED

THE MOTION IS DENIED for No(s). , , , , for the following reasons (check all that apply):

- More than five years have not elapsed since Mover completed the misdemeanor conviction sentence.
- Mover's misdemeanor conviction was not set aside and dismissed pursuant to C.Cr.P. Art. 894(B).
- More than ten years have not elapsed since Mover completed the felony conviction sentence.
- Mover was convicted of one of the following ineligible felony offenses:
 - A violation of the Uniform Controlled Dangerous Substances Law which is ineligible to be expunged.
 - An offense currently listed as a sex offense that requires registration pursuant to R.S. 15:540 et seq., at the time the Motion was filed, regardless of whether the duty to register was ever imposed.
 - An offense defined or enumerated as a "crime of violence" pursuant to R.S. 14:2(B) at the time the Motion was filed.
 - ~~The arrest and conviction being sought to have expunged is for operating a motor vehicle while intoxicated and a copy of the proof from the Department of Public Safety and Corrections, office of motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).~~

1 member of a law enforcement agency, or a judge who may request such information in
2 writing certifying that such request is for the purpose of prosecuting, investigating, or
3 enforcing the criminal law, for the purpose of any other statutorily defined law enforcement
4 or administrative duties, or for the purpose of the requirements of sex offender registration
5 and notification pursuant to the provisions of R.S. 15:541 et seq. or upon an order of this
6 Court to any other person for good cause shown, or as otherwise authorized by law.

7 **THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT BY**
8 **REDACTION** If the record includes more than one individual and the mover is entitled to
9 expungement by redaction pursuant to Code of Criminal Procedure Article 985, for No(s).
10 _____ and all agencies are ordered to expunge the record of arrest/conviction and
11 any photographs, fingerprints, or any other such information of any kind maintained in
12 relation to the Arrest(s)/Conviction(s) in the above-captioned matter as they relate to the
13 mover only. The record shall be confidential and no longer considered a public record, nor
14 be available to other persons except a prosecutor, member of a law enforcement agency, or
15 a judge who may request such information in writing certifying that such request is for the
16 purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose of any
17 other statutorily defined law enforcement or administrative duties, or for the purpose of the
18 requirements of sex offender registration and notification pursuant to the provisions of R.S.
19 15:541 et seq. or upon an order of this Court to any other person for good cause shown, or
20 as otherwise authorized by law.

21 NAME: _____

22 (Last, First, MI)

23 DOB: ____ / ____ / ____ (MM/DD/YY)

24 GENDER: ____ Female ____ Male

25 SSN (last 4 digits): XXX-XX-_____

26 RACE: _____

27 DRIVER LIC.# _____

28 ARRESTING AGENCY: _____

29 SID# (if available): _____

1 ARREST NUMBER (ATN): _____

2 AGENCY ITEM NUMBER: _____

3 ARREST DATE: ____ / ____ / ____ (MM/DD/YY)

4 **THUS ORDERED AND SIGNED** this ____ day of _____, 20____

5 at _____, Louisiana.

6 _____

7 JUDGE

8 **PLEASE SERVE:**

9 1. District Attorney: _____

10 2. Arresting Agency: _____

11 3. Parish Sheriff: _____

12 4. Louisiana Bureau of Criminal Identification and Information _____

13 5. Attorney for Defendant (or defendant) _____

14 6. Clerk of Court _____"

15 Section 2. Code of Criminal Procedure Articles 976, 977(A)(introductory paragraph)
16 and (2), (B), and (C)(introductory paragraph) and (1), and 978(A)(introductory paragraph)
17 and (2), and (B)(introductory paragraph), (C), and (E)(1) are hereby amended and reenacted
18 and Code of Criminal Procedure Articles 977(A)(3), and 981.1 are hereby enacted to read as
19 follows:

20 Art. 976. ~~Motion to expunge~~ Government-initiated expungement of a fingerprinted
21 record of arrest that did not result in a conviction

22 A. A ~~person may file a motion to expunge a~~ fingerprinted record of ~~his~~ arrest
23 for a felony or misdemeanor offense that did not result in a conviction ~~if any~~ shall
24 be expunged through government automation at the earliest of the following ~~apply~~:

25 (1) ~~The person was not prosecuted for the offense for which he was arrested,~~
26 ~~and the limitations on the institution of prosecution have barred the prosecution for~~
27 ~~that offense.~~ Dismissal, including but not limited to a sustained motion to quash or
28 completion of diversion that results in a dismissal.

1 (2) ~~The district attorney for any reason declined to prosecute any offense~~
2 ~~arising out of that arrest, including the reason that the person successfully completed~~
3 ~~a pretrial diversion program. A finding of not guilty by a judge or jury.~~

4 (3) ~~Prosecution was instituted and such proceedings have been finally~~
5 ~~disposed of by dismissal, sustaining of a motion to quash, or acquittal. If the~~
6 ~~prescriptive period has elapsed and no prosecution was instituted inclusive of any~~
7 ~~suspensions or interruptions, as defined in Article 572 et seq. of this Code and there~~
8 ~~are no warrants or attachments listed in the criminal repository.~~

9 (4) ~~The person was judicially determined to be factually innocent and~~
10 ~~entitled to compensation for a wrongful conviction pursuant to the provisions of R.S.~~
11 ~~15:572.8. The person may seek to have the arrest and conviction which formed the~~
12 ~~basis for the wrongful conviction expunged without the limitations or time delays~~
13 ~~imposed by the provisions of this Article or any other provision of law to the~~
14 ~~contrary. Arrests with no disposition when:~~

15 (a) ~~Notwithstanding Subsubparagraphs (b) and (c) of this Subparagraph, ten~~
16 ~~years have elapsed since the arrest date with no disposition.~~

17 (b) ~~The offense is a crime of violence as defined in R.S. 14:2 which will~~
18 ~~require fifteen years.~~

19 (c) ~~The crime is punishable by death or life imprisonment or is a sex offense~~
20 ~~as defined in R.S. 15:541, which shall not be eligible without a disposition.~~

21 B. Pursuant to R.S. 15:578.1, no person arrested for a violation of R.S. 14:98
22 (operating a vehicle while intoxicated) or a parish or municipal ordinance that
23 prohibits operating a vehicle while intoxicated, impaired, or while under the
24 influence of alcohol, drugs, or any controlled dangerous substance, and placed by the
25 prosecuting authority into a pretrial diversion program, shall be entitled to ~~an~~ a
26 government-initiated expungement of the record until five years have elapsed since
27 the date of arrest for that offense.

28 C. ~~The motion to expunge a record of arrest that did not result in a~~
29 ~~conviction of a misdemeanor or felony offense shall be served pursuant to the~~

1 ~~provisions of Article 979.~~ The government-initiated expungement of a fingerprinted
2 record of arrest that did not result in a conviction of a misdemeanor or felony offense
3 shall be served pursuant to the provisions of Article 982.1.

4 * * *

5 Art. 977. ~~Motion to expunge~~ Government-initiated expungement of a fingerprinted
6 record of arrest and conviction of a misdemeanor offense

7 A. ~~A person may file a motion to expunge his~~ fingerprinted record of a
8 misdemeanor conviction and any underlying records of arrest associated with such
9 conviction record of arrest and conviction of a misdemeanor offense if either shall
10 be expunged through government automation by the criminal repository at the
11 earliest of the following apply:

12 * * *

13 (2) ~~More than five~~ Five years have elapsed since the ~~person completed the~~
14 sentence or disposition date for any sentence, deferred adjudication, or period of
15 probation or parole, and the person has not been convicted of any felony offense
16 during the five-year period, and has no felony charge pending against him. ~~The~~
17 ~~motion filed pursuant to this Subparagraph shall include a certification obtained from~~
18 ~~the district attorney which verifies that to his knowledge the applicant has no felony~~
19 ~~convictions during the five-year period and no pending felony charges under a bill~~
20 ~~of information or indictment.~~

21 (3) Six years have elapsed since the arrest date for a misdemeanor conviction
22 with a disposition date but no sentence date in the criminal repository.

23 B. ~~The motion to expunge a record of arrest and conviction of a~~
24 ~~misdemeanor offense shall be served pursuant to the provisions of Article 979 of this~~
25 ~~Code.~~ The criminal repository shall serve notice of this expungement pursuant to the
26 provisions of Article 982.1.

27 C. No person shall be entitled to a government-initiated expungement of a
28 record under any of the following circumstances:

1 (1) The misdemeanor conviction ~~arose from circumstances involving or is~~
2 the result of an arrest for a sex offense as defined in R.S. 15:541 or there are
3 miscellaneous dispositions for misdemeanors in the criminal repository record that
4 include a sex offense without disposition, except that an interim expungement shall
5 be available as authorized by the provisions of Article 985.1 of this Code.

6 * * *

7 Art. 978. ~~Motion to expunge~~ Government-initiated expungement of a record of
8 arrest and conviction of a felony offense

9 A. Except as provided in ~~Paragraph B of this Article~~, a person may file a
10 ~~motion to expunge his record of arrest and~~ Article 978.1, a conviction of a felony
11 offense ~~if any of the~~ and any underlying records of arrest associated with the
12 conviction record, shall be expunged through government automation by the criminal
13 repository at the earliest of the following apply:

14 * * *

15 (2) ~~More than ten~~ Ten years have elapsed since the ~~person completed~~
16 sentence date plus the sentence duration for any sentence, deferred adjudication, or
17 period of probation or parole based on the felony conviction, and the person has not
18 been convicted of any other fingerprinted criminal offense during the ten-year
19 period, and has no fingerprinted criminal charge pending against him. ~~The motion~~
20 ~~filed pursuant to this Subparagraph shall include a certification obtained from the~~
21 ~~district attorney which verifies that, to his knowledge, the applicant has no~~
22 ~~convictions during the ten-year period and no pending charges under a bill of~~
23 ~~information or indictment.~~

24 * * *

25 B. No government-initiated expungement shall be ~~granted nor shall a person~~
26 ~~be permitted to file a motion to expunge the record of arrest and conviction of a~~
27 felony offense processed for a felony conviction with any underlying records of

1 arrest associated in the criminal repository if the person was convicted of the
2 commission or attempted commission of any of the following offenses:

3 * * *

4 C. ~~The motion to expunge a record of arrest and conviction of a felony~~
5 ~~offense shall be served pursuant to the provisions of Article 979.~~ The criminal
6 repository shall serve notice of this expungement pursuant to the provisions of
7 Article 982.1.

8 * * *

9 E.(1) Notwithstanding any other provision of law to the contrary, ~~after a~~
10 ~~contradictory hearing, the court may order the expungement of the arrest and~~
11 ~~conviction records of a person~~ a government-initiated expungement shall be
12 processed for a felony conviction and any records associated with the arrest in the
13 criminal repository pertaining to a conviction convictions of aggravated battery,
14 second degree battery, aggravated criminal damage to property, simple robbery,
15 purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the
16 following conditions ~~are proven by the petitioner~~ apply:

17 (a) ~~More than ten~~ Ten years have elapsed since the ~~person completed any~~
18 ~~sentence, deferred adjudication, or period of probation or parole~~ sentence date plus
19 the sentence duration based on the felony conviction.

20 (b) The person has not been convicted of any other fingerprinted criminal
21 offense during the ten-year period.

22 (c) The person has no fingerprinted criminal charge pending against him.

23 * * *

24 Art. 981.1. Certificate of compliance confirming government-initiated expungement
25 of a fingerprinted record

26 A. The certificate of compliance shall include, at a minimum, the following
27 individual identifying information available from the criminal repository and shall
28 use the form provided under Article 992.1 and include the following, if available:

29 (1) Full legal name.

- 1 (2) Date of birth.
- 2 (3) Last four digits of the individual's social security number.
- 3 (4) Race of the individual.
- 4 (5) SID number for the individual.
- 5 (6) Arrest number or ATN for the individual.
- 6 (7) Agency item number.
- 7 (8) Arrest dates.
- 8 (9) Docket numbers and associated screening numbers.
- 9 (10) Arrest disposition.
- 10 (11) Charge.
- 11 (12) Final disposition.
- 12 (13) Disposition date.
- 13 (14) Sentencing and fines.
- 14 (15) Whether or not sentenced to hard labor.

15 B. For purposes of government-initiated expungement, the Louisiana Bureau
16 of Criminal Identification and Information shall transmit the available information
17 described in Paragraph A of this Article to the entities provided for in Article 982.1.

18 (1) Until August 1, 2025, the transmission of the available information shall
19 be at least once every ninety days.

20 (2) Beginning August 1, 2025, the transmission of available information
21 shall be at least once a month.

22 C. Upon request from an individual seeking confirmation of their
23 government-initiated expungement, the Louisiana Bureau of Criminal Identification
24 and Information shall generate and issue a certificate of compliance to the individual
25 listed on the certificate for the purposes of confirming a record has been expunged
26 through the government-initiated process. The individual seeking confirmation of
27 government-initiated expungement shall request the certificate through a right to
28 review or other process established by the Louisiana Bureau of Criminal
29 Identification and Information. The certificate shall not affect any persons or other

1 entities set forth in Article 982.1 who have not been served with the certificate of
2 compliance.

3 D. All entities listed in Article 982.1 upon receiving the data transmitted
4 described in Paragraph A of this Article from the Louisiana Bureau of Criminal
5 Identification and Information shall expunge a record by digitally removing the
6 public view the records of arrest or convictions and any photographs, fingerprints,
7 or other such information of any kind maintained in connection with the arrests or
8 convictions. Such record shall be confidential and no longer considered a public
9 record, nor shall the record be available to other persons except a prosecutor,
10 members of law enforcement agency, or a judge who may request such information
11 in writing certifying that such request is for the purpose of prosecuting, investigating,
12 or enforcing criminal laws, for the purpose of any other statutorily defined law
13 enforcement or administrative duties, or for the purpose of the requirements of sex
14 offender registration or notification pursuant to the provisions of R.S. 15:541 et seq.
15 or upon an order of the court to any other person for good cause shown, or as
16 otherwise provided by law.

17 (1) All entities served with the transmission of data as provided in Paragraph
18 A of this Article for a government-initiated expungement may do any of the
19 following:

20 (a) Expunge records according to the process for a petition-based
21 expungement, as provided in Articles 977.2 and 978.1.

22 (b) Access the criminal repository to fulfill any records requests for
23 information that may include expunged information.

24 * * *

25 Section 3. Code of Criminal Procedure Articles 976.1, 977.1, 981.2, and 982.1 are
26 hereby enacted to read as follows:

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Art. 976.1. Government-initiated expungement of a non-fingerprinted record of
2 arrest that did not result in conviction

3 A. A non-fingerprinted record of arrest for a misdemeanor offense that did
4 not result in a conviction shall be expunged through government automation at the
5 earliest of the following:

6 (1) Dismissal, including but not limited to a sustained motion to quash or
7 completion of a pretrial diversion program that results in a dismissal.

8 (2) Finding of not guilty by a judge.

9 (3) If the prescriptive period has elapsed and no prosecution was instituted
10 inclusive of any suspensions or interruptions, as defined in Article 572 et seq. of this
11 Code and there are no warrants or attachments for the arrest record.

12 (4) Arrests with no disposition when ten years have elapsed since the arrest
13 date with no disposition.

14 B. Pursuant to R.S. 15:578.1, no person arrested for a violation of R.S. 14:98
15 (operating a vehicle while intoxicated) or a parish or municipal ordinance that
16 prohibits operating a vehicle while intoxicated, impaired, or while under the
17 influence of alcohol, drugs, or any controlled dangerous substance, and placed by the
18 prosecuting authority into a pretrial diversion program, shall be entitled to a
19 government-initiated expungement of the record until five years have elapsed since
20 the date of the arrest for that offense.

21 C. The government-initiated expungement of a non-fingerprinted record of
22 arrest that did not result in a conviction of a misdemeanor offense shall be served
23 pursuant to the provisions of Article 982.1 of this Code.

24 * * *

25 Art. 977.1. Government-initiated expungement of a record of arrest and conviction
26 of a non-fingerprinted misdemeanor offense

27 A. A non-fingerprinted record of a misdemeanor conviction and any
28 underlying records of arrest associated with such conviction shall be expunged

1 through automation by the Case Management Information System at the earliest of
2 the following:

3 (1) The conviction was set aside and the prosecution was dismissed pursuant
4 to Article 894(B).

5 (2) Five years have elapsed since the sentence or disposition date for any
6 sentence, deferred adjudication, or period of probation or parole.

7 (3) Six years have elapsed since the arrest date for a non-fingerprinted
8 misdemeanor conviction with a disposition date but no sentence date in the Case
9 Management Information System.

10 B. The Case Management Information System shall serve notice of this
11 expungement pursuant to the provisions of Article 982.1.

12 C. No person shall be entitled to a government-initiated expungement of a
13 record under any of the following circumstances:

14 (1) The misdemeanor conviction was for domestic battery.

15 (2) The misdemeanor conviction was for stalking (R.S. 14:40.2).

16 * * *

17 Art. 981.2. Transmission of data confirming government-initiated expungement of
18 a non-fingerprinted record

19 A. The transmission of data shall include the following individual identifying
20 information if available from the Case Management Information System:

21 (1) Full legal name.

22 (2) Date of birth.

23 (3) Last four digits of the individual's social security number.

24 (4) Race of the individual.

25 (5) SID number for the individual.

26 (6) Arrest number or ATN for the individual.

27 (7) Agency item number.

28 (8) Arrest dates.

29 (9) Docket numbers and associated screening numbers.

1 (10) Arrest disposition.

2 (11) Charge.

3 (12) Final disposition.

4 (13) Disposition date.

5 (14) Sentencing and fines.

6 (15) Whether or not sentenced to hard labor.

7 B. For purposes of government-initiated expungement, the Louisiana
8 Supreme Court Case Management Information System shall transmit the available
9 information described in Paragraph A of this Article to the entities provided for in
10 Article 982.1.

11 (1) Until August 1, 2025, the transmission of the available information shall
12 be at least once every ninety days.

13 (2) Beginning August 1, 2025, the transmission of available information
14 shall be at least once a month.

15 C. The available data described in Paragraph A of this Article related to a
16 non-fingerprinted record of arrest or conviction of a misdemeanor offense shall be
17 transmitted as provided for in Article 982.1. The transmission of data shall not affect
18 any persons or other entities not set forth in Article 982.1.

19 D. All entities listed in Article 982.1 upon receiving the transmission of data
20 described in Paragraph A of this Article from the Case Management Information
21 System shall expunge the records by digitally removing from public view the records
22 of arrest or conviction and any photographs, fingerprints, or other such information
23 of any kind maintained in connection with the arrests or convictions. Such record
24 shall be confidential and no longer considered a public record, nor shall the record
25 be available to other persons except a prosecutor, members of a law enforcement
26 agency, or a judge who may request such information in writing certifying that such
27 request is for the purpose of prosecuting, investigating, or enforcing criminal laws,
28 for the purpose of any other statutorily defined law enforcement or administrative
29 duties, or for the purpose of the requirements of sex offender registration or

1 notification pursuant to the provisions of R.S. 15:541 et seq. or upon an order of the
2 court to any other person for good cause shown, or as otherwise provided by law.

3 (1) All entities served with the transmission of data as provided in Paragraph
4 A of this Article for a government-initiated expungement may do any of the
5 following:

6 (a) Expunge records according to the process for a petition-based
7 expungement, as provided in Articles 977.2 and 978.1.

8 (b) Access the criminal repository to fulfill any records requests for
9 information that may include expunged information.

10 * * *

11 Art. 982.1. Transmission of data to complete and serve a government-initiated
12 fingerprinted and non-fingerprinted expungement

13 A. The Louisiana Bureau of Criminal Identification and Information through
14 the criminal repository shall transmit the available data provided in Article 981.1 by
15 United States mail or electronically to all of the following entities:

16 (1) The district attorney of the parish of conviction.

17 (2) The clerk of court of the parish of conviction.

18 (3) The arresting agency, if such agency is included in the arrest entry.

19 (4) The sheriff of the parish of conviction.

20 B. The Case Management Information System shall transmit the available
21 data provided in Article 981.2 by United States mail or electronically upon all of the
22 following entities:

23 (1) The district attorney of the parish of conviction.

24 (2) The Louisiana Bureau of Criminal Identification and Information.

25 (3) The clerk of court of the parish of conviction.

26 (4) The arresting agency.

27 (5) The sheriff of the parish of conviction.

28 C. Any entity in receipt of the government-initiated expungement data from
29 either the Louisiana Bureau of Criminal Identification and Information or the Case

- (2) Provides for a petition-based expungement of record of arrest that did not result in conviction.
- (3) Provides for a petition-based expungement of a record of arrest and conviction of a misdemeanor offense.
- (4) Provides for a petition-based expungement of a record of arrest and conviction of a felony offense.
- (5) Provides relative to the costs associated for a petition-based expungement of a record, and provides that a person shall not be charged any costs for a government-initiated expungement of records.
- (6) Amends certain present law forms to conform with proposed law changes.
- (7) Provides relative to the process for a government-initiated expungement of a fingerprinted record of arrest that did not result in a conviction.
- (8) Provides relative to the process for a government-initiated expungement of a fingerprinted record of arrest and conviction of misdemeanor and felony offenses.
- (9) Provides for a certificate of compliance confirming a government-initiated expungement of a fingerprinted record.
- (10) Provides relative to the transmission of data to complete and serve a government-initiated fingerprinted and non-fingerprinted expungement.

Proposed law provides for certain effective dates of proposed law.

(Amends C.Cr.P. Arts. 971(7), 974(B) and (C), 976, 977(A)(intro. para.) and (2), (B), and (C)(intro. para.) and (1); 978(A)(intro. para.) and (2), (B)(intro. para.), (C), and (E)(1), 979(section heading), 980(section heading), 981, 982(section heading), 983(I), 985, 985.1(C), 986(A), 987, and 992; Adds C.Cr.P. Arts. 971(8), 972(5) through (14), 976.1, 976.2, 977(A)(3), 977.1, 977.2, 978.1, 981.1, 981.2, 982.1, and 983(J); Repeals C.Cr.P. Arts. 978(E)(2), 984, and 996)