2023 Regular Session

SENATE BILL NO. 111

BY SENATOR DUPLESSIS

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

CRIMINAL RECORDS. Provides relative to the expungement of criminal records. (8/1/23)

1   AN ACT

2   To amend and reenact Code of Criminal Procedure Art. 973(E) and to enact Code of

3   Criminal Procedure Art. 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; and to provide for related matters.

10   Be it enacted by the Legislature of Louisiana:

11   Section 1. Code of Criminal Procedure Art. 973(E) is hereby amended and reenacted

12   and Code of Criminal Procedure Art. 985.2 is hereby enacted to read as follows:

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

14   *   *   *

15   E. Nothing in this Article shall be construed to limit or impair in any way the

16   subsequent use of any expunged record of any arrests or convictions by a **judge,**

17   **magistrate, commissioner,** law enforcement agency, criminal justice agency, or

1　　prosecutor including its use as a predicate offense, for the purposes of the Habitual

2　　Offender Law, **setting bail, sentencing,** or as otherwise authorized by law.

3　　　　　　　　　　　　　　　　*　　　*　　　*

4　　**Art. 985.2. Automated expungement of qualifying records**

5　　　　　**A. The Louisiana Bureau of Criminal Identification and Information**

6　　**shall identify within its criminal repository database all records with a Case**

7　　**Management Information System (CMIS) number and final dispositions for**

8　　**individuals eligible for an expungement pursuant to the provisions of Code of**

9　　**Criminal Procedure Articles 976, 977, and 978.**

10　　　　　**B. Beginning January 1, 2025, a defendant may submit a request through**

11　　**the Louisiana Bureau of Criminal Identification and Information for**

12　　**expungement through the automated process. The form shall contain the**

13　　**defendant's name, date of birth, last four digits of their social security number,**

14　　**arrest date, and case number. Within thirty days of receipt of the request, the**

15　　**Bureau shall expunge any eligible records identified in Paragraph A of this**

16　　**Article and shall send the records with a Case Management Information System**

17　　**number and final dispositions to the Louisiana Supreme Court Case**

18　　**Management Information System.**

19　　　　　**C. Within thirty days of receipt of records from the Louisiana Bureau**

20　　**of Criminal Identification and Information, the Louisiana Supreme Court Case**

21　　**Management Information System shall send notice by United States mail or**

22　　**electronically of all records identified pursuant to Paragraph A of this Article**

23　　**to be expunged by automation to the clerks of the district courts of Louisiana.**

24　　**The clerks of the district courts of Louisiana shall verify and identify such**

25　　**records and mark those records as expunged by automation. If a clerk of a**

26　　**district court is unable to verify and identify any record identified for automatic**

27　　**expungement, the clerk shall notify the Louisiana Supreme Court Case**

28　　**Management Information System within thirty days of receipt of the notice**

29　　**required pursuant to the provisions of this Paragraph, who shall then notify the**

1 **Louisiana Bureau of Criminal Identification and Information that the record**

2 **is not expunged by automation.**

3 **D. The clerks of the district courts of Louisiana shall send notice by**

4 **United States mail or electronically of all records expunged by automation to**

5 **the district attorney of the parish of the person's conviction, the sheriff of the**

6 **parish of the person's conviction, and the arresting agency. The district**

7 **attorney, sheriff, and arresting agency shall acknowledge the records as**

8 **expunged by automation according to Code of Criminal Procedure Article 973.**

9 **Nothing in this Paragraph shall be construed to require the arresting agency,**

10 **booking agency, or the district attorney to manually segregate or sequester**

11 **upon acknowledging or identifying the records.**

12 **E. The Department of Public Safety and Corrections, office of state**

13 **police, is hereby authorized to adopt and promulgate rules and regulations in**

14 **accordance with the Administrative Procedure Act to carry out the provisions**

15 **of this Article for criminal records in district courts of Louisiana which date**

16 **back to January 1, 2006.**

17 **F. Nothing in this Article shall prevent an otherwise eligible individual**

18 **from obtaining an expungement pursuant to any provision in this Title. An**

19 **individual eligible for an automated expungement under this Article shall not**

20 **have a cause of action for any damages resulting from the omission of their**

21 **records in the process provided by this Article.**

22 **G. This Article shall be subject to the appropriate funding necessary for**

23 **implementation and provided for in the executive budget for Fiscal Year 2025-**

24 **2026.**

25 Section 2. The legislature hereby recognizes the judicial power vested in the state

26 supreme court pursuant to Article V, Section 1 of the Constitution of Louisiana and,

27 accordingly, urges and requests the supreme court to adopt rules to carry out the provisions

28 of this Act.

29 Section 3. Notwithstanding any provision of law to the contrary, no later than

1 June 30, 2024, the legislature shall appropriate funding necessary for the implementation of

2 this Act to the Louisiana Commission on Law Enforcement for distribution to each sheriff

3 in the state in proportion to the number of automatic expungements submitted to the sheriff

4 by the clerks of court pursuant to the provisions of this Act.

5   Section 4. The provisions of Sections 1, 2, and 3 of this Act shall become effective

6 if an Act or Acts of the Legislature of Louisiana originating in the 2023 Regular Session

7 containing specific appropriations of monies for the office of state police, the Louisiana

8 Supreme Court, and the Louisiana Clerks' Remote Access Authority for the implementation

9 of the provisions of this Act becomes effective. If such appropriations are made in a single

10 Act, Sections 1, 2, and 3 of this Act shall become effective when the Act that made the

11 appropriations becomes effective. If such appropriations are made in different Acts, Sections

12 1, 2, and 3 of this Act shall become effective when the Act having the later effective date

13 becomes effective.

14   Section 5. The provisions of this Section and Section 4 of this Act shall become

15 effective upon signature of this Act by the governor or, if not signed by the governor, upon

16 expiration of the time for bills to become law without signature by the governor, as provided

17 by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the

18 governor and subsequently approved by the legislature, the provisions of this Section and

19 Section 4 of this Act shall become effective on the day following such approval.

The original instrument was prepared by Whitney Kauffeld. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tracy Sabina Sudduth.

DIGEST
SB 111 Reengrossed   2023 Regular Session   Duplessis

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

Proposed law provides that the effect of an expunged record of arrest or conviction does 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.

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 a Case Management Information System (CMIS) number and final dispositions for individuals eligible for an expungement pursuant to the provisions of present law.

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

Proposed law provides that on Aug. 1, 2024, and every 30 days thereafter, the bureau is to 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 bureau 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 sheriff and the arresting agency to identify the records as expunged by automation. Requires the district attorney to acknowledge that the records have been expunged by automation. 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 is to mark the records as expunged and notify the bureau by U.S. mail or electronically of all the expunged records. Requires the bureau to mark the records as expunged by automation.

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, 2006. Further urges and requests the supreme court to adopt rules to carry out the provisions of proposed law.

Proposed law will become effective if an Act or Acts that originated in the 2023 Regular Session of the Legislature make specific appropriations to the office of state police and the La. Supreme Court 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 Senate

> Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

> 1.   Make technical changes.

> Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

> 1.   Requires the bureau to include CMIS numbers when identifying individuals eligible for an expungement.

> 2.   Provides that beginning January 1, 2025, a defendant may submit a request through the bureau for expungement through the automated process. The form shall contain the defendant's name, date of birth, last four digits of their social security number, arrest date, and case number. Within 30 days of

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receipt of the request, the bureau shall expunge any eligible records identified in proposed law and shall send the records with a CMIS number and final dispositions to the Louisiana Supreme Court Case Management Information System.

3.   Provides that the proposed law applies to criminal records in district courts which date back to Jan. 1, 2006.

4.   Provides that the automated expungement of qualifying records shall be subject to appropriations provided for in the executive budget for FY 2025-2026.

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