
DIGEST

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Lopinto

HB No. 55

Abstract: Rewrites the provisions of expungement law.

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

Present law provides for the confidentiality of expunged records and authorizes access to those records by law enforcement, criminal justice agencies, and statutorily defined entities.

Proposed law retains present law.

Proposed law provides for a comprehensive revision to present law provisions, including the following major changes:

- (1) Moves expungement provisions of law from provisions regarding public records to the Code of Criminal Procedure.
- (2) Provides for statutorily defined forms to be used in motions for expungement and judgments of expungement.
- (3) Prohibits the unauthorized dissemination of expunged records by third parties and provides penalties for the unauthorized dissemination of expunged record information.
- (4) Provides for a five-year cleansing period without conviction to obtain an expungement for a misdemeanor conviction.
- (5) Provides for a ten-year cleansing period without conviction to obtain an expungement for a felony conviction.
- (6) Deletes provisions of present law authorizing the destruction of criminal records.
- (7) Provides for a limitation on the number of expungements a person may obtain.
- (8) Provides eligibility criteria to obtain an expungement.
- (9) Prohibits the expungement of crimes of violence, sex offenses, and most controlled dangerous substances violations.

- (10) Allows the expungement of a conviction for possession of a controlled dangerous substance or the possession with intent to distribute a controlled dangerous substance.
- (11) Authorizes the district attorney or the bureau to request a contradictory hearing on a motion to expunge and provides for time periods for raising objections.
- (12) Provides for an expungement by redaction of certain identifying information in the records of a person who is arrested or convicted with other offenders who are not entitled to an expungement. Provides that expungement by redaction is the removal of the name or any other identifying information of the person entitled to the expungement but otherwise retains the records of the incident as they relate to the other defendants.

Present law provides for the following fees for expungement:

- (1) The La. Bureau of Criminal Identification and Information may charge \$250.
- (2) The sheriff may charge \$50.
- (3) The district attorney may charge \$50.

Present law authorizes the clerk of court to charge an administrative fee of up to \$200.

Proposed law retains present law and makes the fees nonrefundable.

(Adds C.Cr.P. Arts. 971-993; Repeals R.S. 44:9)