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## DIGEST

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HB 284 Reengrossed

2015 Regular Session

Lopinto

**Abstract:** Amends the provisions of law providing for expungements.

Present law provides for the expungement of criminal records of arrest and convictions of certain criminal offenses.

Present law provides that an arrest that did not result in a conviction may be expunged if the time period for prosecution has expired and the person was not prosecuted, the district attorney declined to prosecute any offenses arising out of the arrest, or proceedings were finally disposed of by dismissal, sustaining a motion to quash, or acquittal.

Proposed law retains present law and provides that no person arrested for a violation of operating a vehicle while intoxicated and placed by the prosecuting authority into a pretrial diversion program, shall be entitled to an expungement of the record until five years have elapsed since the date of arrest for that offense.

Proposed law provides that motions to expunge a record of arrest that did not result in a conviction shall be served in the same manner as all other expungement motions.

Proposed law provides that when service of a motion of expungement is made by U.S. mail, the motion shall be accompanied by a certificate of service indicating the date the motion was placed in the U.S. mail for service.

Present law provides that a misdemeanor conviction which arose from circumstances involving a sex offense cannot be expunged.

Proposed law changes the provisions of present law to provide that if the misdemeanor conviction is the result of an arrest for a sex offense, the record cannot be expunged.

Proposed law adds that a misdemeanor conviction for the crime of stalking cannot be expunged.

Present law provides that the court shall order the clerk of court to mail to DPS&C, office of motor vehicles, a certified copy of the record of the guilty plea, fingerprints, and proof of eligibility to make the plea when records involve DWI violations.

Proposed law provides that when a defendant who has entered a plea pursuant to present law in a DWI case seeks an expungement, the clerk of court may send a copy of a letter issued by DPS&C

in lieu of sending the documents and fingerprints again, if the clerk had previously sent those documents at the time of the plea.

Proposed law authorizes the clerk of court to change the statutory forms to provide for the appropriate name of the court ordering the expungement.

Present law provides that juveniles who successfully participate in a drug court program are exempt from expungement fees.

Proposed law retains this provision of present law and amends form provisions to include participation in drug court programs as eligible for a fee exemption.

Proposed law makes changes to form provisions to make them consistent with present law and to provide for additional identification information and clarity to form language.

(Amends C.Cr.P. Arts. 976, 977(C)(intro. para.) and (1), 978(B)(1) and (3), 979, 980(C) and (D), 984(C), 988, 989, and 992; Adds C.Cr.P. Arts. 894.5, 977(C)(3), 984(D), 986(C), and 996)

#### Summary of Amendments Adopted by House

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

1. Provide that when service is made by U.S. Mail, a certificate of service shall be filed in the record indicating the date the motion was placed in the mail.
2. Make technical changes to expungement forms.
3. Make changes to permissible CDS violations which can be expunged.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Clarify that forms for the expungement of certain DWI offenses transmitted to the office of motor vehicles are to be completed by the clerk of court.