2017 Regular Session

HOUSE BILL NO. 514

#### BY REPRESENTATIVE ARMES

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

CRIMINAL/PROCEDURE: Provides relative to the confidentiality and expungement of juvenile records

1	AN ACT
2	To amend and reenact R.S. 15:579, 593, and 614(B), and Children's Code Articles 412(A),
3	(D)(introductory paragraph), (9), and (10), (E), (G)(4), (H), (I), (J), and (K), 414(A),
4	917, 918, 919(A), (B), (E), and (F), 920(A), 921(A)(introductory paragraph) and (D),
5	and 922, to enact R.S. 15:614(C) and Children's Code Articles 405(H), 412(L) and
6	(M), 901(G) and (H), 924, and 925, and to repeal Children's Code Article 412(D)(11)
7	and (12), relative to juvenile records; to provide relative to the rules and regulations
8	of the Louisiana Bureau of Criminal Identification and Information regarding the
9	privacy and security of records; to provide relative to the destruction and removal of
10	records; to provide relative to the confidentiality of records; to provide relative to the
11	disclosure and dissemination of records; to provide relative to the duties of the child's
12	attorney; to provide relative to the procedure for a person to obtain an expungement
13	of a juvenile record; to provide relative to the costs of obtaining an expungement; to
14	provide relative to the effect of expungement of juvenile records; to provide for
15	forms; and to provide for related matters.

#### HLS 17RS-951

1	Be it enacted by the Legislature of Louisiana:
2	Section 1. R.S. 15:579, 593, and 614(B) are hereby amended and reenacted and R.S.
3	15:614(C) is hereby enacted to read as follows:
4	§579. Rules and regulations
5	The bureau shall issue rules and regulations, consistent with United States
6	Department of Justice requirements, the Constitution of the State of Louisiana, the
7	Code of Criminal Procedure, the Children's Code, and the Louisiana Revised Statutes
8	of 1950, governing the maintenance of privacy and security of criminal and juvenile
9	history records; governing access to and use of records maintained by the central
10	repository; governing restrictions to access and use by authorized agencies or
11	individuals of any state owned or operated system of communications utilized for
12	transmitting criminal history record information to or from the bureau; and
13	governing the purging of any information maintained by the bureau as permitted by
14	law.
15	* * *
16	§593. Prohibition against destruction of records
17	Notwithstanding the provisions of Articles 893 and 894 of the Code of
18	Criminal Procedure and R.S. 40:983 and except in accordance with the provisions
19	set forth in R.S. 44:9 Children's Code Articles 917 through 923, no judge or other
20	official shall order the expungement, alteration, or destruction of any record of the
21	bureau or of any agency subject to reporting requirements of the bureau.
22	* * *
23	§614. Removal of records
24	* * *
25	B. The state police shall remove all records and identifiable information in
26	the data base or data bank pertaining to the person and destroy all samples from the
27	person upon receipt of a written request for the removal of the record and a certified
28	court order of expungement properly obtained, including those obtained pursuant to
29	the provisions of R.S. 44:9 Children's Code Articles 917 through 923.

# Page 2 of 20

1	C. Notwithstanding any provision of law to the contrary, juvenile records are
2	not responsive to any requests for a background check.
3	Section 2. Children's Code Articles 412(A), (D)(introductory paragraph), (9), and
4	(10), (E), (G)(4), (H), (I), (J) and (K), 414(A), 917, 918, 919(A), (B), (E) and (F), 920(A),
5	921(A)(introductory paragraph) and (D), and 922 are hereby amended and reenacted and
6	Children's Code Articles 405(H), 412(L) and (M), 901(G) and (H), 924, and 925 are hereby
7	enacted to read as follows:
8	Art. 405. Court or witness fees; travel expenses
9	* * *
10	<u>H.</u> There shall be no cost for filing a petition requesting expungement of a
11	juvenile record, for the court to issue an order of expungement, or for agencies
12	subject to the order to physically expunge the records.
13	* * *
14	Art. 412. Confidentiality of records; disclosure exceptions; sanctions
15	A. Records and reports concerning all matters or proceedings before the
16	juvenile court, except traffic violations, are confidential and shall not be disclosed
17	except as expressly authorized by this Code. Any person authorized to review or
18	receive confidential information shall preserve its confidentiality in the absence of
19	express authorization for a court order authorizing its sharing with others.
20	* * *
21	D. When such information is relevant and necessary to the performance of
22	their respective duties and enhances services to the child or his family, the court may
23	authorize the release of records, reports, or certain information contained therein,
24	limited to the specific purpose for which the court authorizes the release, to
25	appropriate individuals who represent any of the following when they are providing
26	services to the child whose records are disclosed during the pendency of the matter
27	about which records are disclosed representing:
28	* * *

## Page 3 of 20

1	(9) A truancy and assessment center.
2	(10) Other child serving agencies or programs.
3	(11) The attorney general's office.
4	(12)(10) A district public defender or the district public defender's
5	representative, or the representative of a public defender program established
6	pursuant to the Louisiana Public Defender Act of 2007.
7	E.(1) For good cause when the information is material and necessary to a
8	specific investigation or proceeding, the court may order the release of individual
9	records and reports, or certain information contained therein, to a petitioner, limited
10	to the specific purpose for which the court authorizes release.
11	(2) The juvenile court shall provide notice to the juvenile and his attorney
12	of the petition and an opportunity to object.
13	(3) The juvenile court shall hold a hearing on the petition if such hearing is
14	requested by the petitioner or the juvenile.
15	(4) The petition filed with the juvenile court and served on the juvenile and
16	his attorney shall state the following:
17	(a) The reason the person, department, entity, or agency is requesting the
18	information.
19	(b) The use of the information, including any intended redisclosure.
20	(c) The names of those persons within the department, entity, or agency who
21	will have access to the information.
22	(5) In ruling on the petition, the juvenile court shall consider the privacy
23	interests of the juvenile and the potential risks of harm to the juvenile, whether a
24	compelling reason exists for releasing the information, and whether the release is
25	necessary for the protection of a legitimate interest.
26	* * *

Page 4 of 20

1	G. In accordance with Articles 811.1 and 811.3, the district attorney or court
2	may release to the victim of a delinquent act constituting a crime of violence as
3	defined in R.S. 14:2(B), or to the victim's legal representative or designated family
4	member:
5	* * *
6	(4) Certain information contained in the predisposition report to the court
7	pursuant to Article 890, limited to those items described in $\frac{\text{Subparagraphs}(A)(1)}{\text{and}}$
8	Subparagraph (A)(2) and Paragraph (D) of that Article.
9	H. The district attorney, law enforcement agency, or court may release to the
10	public the following identifying information concerning an alleged or adjudicated
11	delinquent child, provided the child was at least fourteen years old at the commission
12	of the delinquent act:
13	(1) The name, age, and delinquent act for which the child is being charged
14	whenever, in accordance with Article 813 or 820, the court has found probable cause
15	that the child committed a crime of violence as defined by R.S. 14:2(B) or a second
16	or subsequent felony-grade offense.
17	(2) The name, age, delinquent act, and disposition of a child who has been
18	adjudicated delinquent for a crime of violence as defined by R.S. 14:2(B), for a
19	second or subsequent felony-grade offense, or for the distribution or possession with
20	the intent to distribute a controlled dangerous substance as defined in R.S. 40:961 et
21	<del>seq.</del>
22	H. In order to assist in finding and taking into custody a child wanted for a
23	felony-grade delinquent act involving an offense against the person or involving a
24	dangerous weapon, law enforcement agencies may release to the public identifying
25	information regarding the child if a court has issued an order for taking the child into
26	custody pursuant to Article 813, or if probable cause that the child committed the
27	alleged delinquent act has already been established pursuant to Article 820.
28	Identifying information may include the child's name, age, alleged delinquent act,

1	physical description, <u>and</u> photograph <del>, address, and, when appropriate, social security</del>
2	number and driver's license number.
3	J.I. Any violation of the confidentiality provisions of this Article shall be
4	punishable as a constructive contempt of court pursuant to Article 1509(E).
5	K.J. Whenever a child escapes from a juvenile detention center, law
6	enforcement agencies are hereby authorized to release to the public the child's name,
7	age, physical description, and photograph.
8	K. Each person, other than the juvenile who is the subject of a juvenile
9	record, his parents, and his attorney, to whom a juvenile record or information from
10	a juvenile record is to be disclosed pursuant to this Article, is required to execute a
11	nondisclosure agreement in which the person certifies that he is familiar with the
12	applicable disclosure provisions and promises not to disclose any information to an
13	unauthorized person.
14	L. Files disseminated pursuant to this Article shall be marked "UNLAWFUL
15	DISSEMINATION OF THIS INFORMATION IS PUNISHABLE AS A
16	CONSTRUCTIVE CONTEMPT OF COURT PURSUANT TO LOUISIANA
17	CHILDREN'S CODE ARTICLE 1509(E)".
18	M. No court or law enforcement records pertaining to the taking into custody
19	of a juvenile shall be considered responsive to a state or local criminal background
20	check.
21	* * *
22	Art. 414. Disclosure of records for sentencing; habitual offender proceedings
23	A. Notwithstanding any provision of law to the contrary, upon written
24	request, reports and records concerning juvenile court proceedings shall be released
25	to the sentencing judge when necessary for sentencing and released to the district
26	attorney for purposes of charging a person as a habitual offender pursuant to R.S.
27	<del>15:529.1</del> .
28	* * *

# Page 6 of 20

1	Art. 901. Disposition guidelines; generally
2	* * *
3	G. It is the duty of the child's attorney to inform the child of the
4	consequences of being adjudicated delinquent, the definition of expungement, and
5	the timelines for expungement that are automatic and those which are available upon
6	application.
7	<u>H.(1) It is the duty of the child's attorney to inform him of his expungement</u>
8	rights. The court shall provide an expungement information packet to the person,
9	written in plain language, that contains the following:
10	(a) Information about the rights and procedures described in Article 920.
11	(b) Instructions to the child that once the case is expunged, it shall be treated
12	as if it never occurred and the child shall not be required to disclose that he had a
13	juvenile record.
14	(c) The expungement motion contained in Article 924.
15	(d) A list of resources for expungement assistance.
16	(2) Failure of the judge to inform the child of the right to petition for
17	expungement as provided by law does not create a substantive right and is not
18	grounds for a reversal of an adjudication of delinquency, a new trial, or an appeal.
19	* * *
20	Art. 917. Expungement; generally
21	A person seventeen years of age or older may move for expungement of
22	records of juvenile criminal conduct pursuant to this Chapter. This Chapter provides
23	the exclusive procedure by which reports and records of proceedings under Titles VII
24	and VIII of this Code may be expunged.
25	Art. 918. Grounds
26	A. Records concerning conduct or conditions that did not result in
27	adjudication may and those for R.S. 14:82, 83.3, 83.4, 89, or 89.2 shall automatically
28	be expunged immediately following the court's discharge of the case. This includes
29	Families in Need of Services cases or delinquency cases in which the time for the

1	state to appeal the dismissal has ended, diverted cases in which the person has
2	successfully completed diversion, cases in which the person was ruled not
3	delinquent, and cases in which the law enforcement agency did not refer the child to
4	court. Expungements pursuant to the provisions of this Paragraph require no
5	application or action by the person. If the chief law enforcement officer of the
6	agency, or his designee, certifies in writing that certain information is needed for a
7	pending investigation involving the commission of a felony, that information, and
8	information identifying the person, may be retained in an intelligence file until the
9	investigation is terminated or for one additional year, whichever period of time is
10	shorter.
11	B. Records concerning conduct or conditions that resulted in a misdemeanor
12	delinquency adjudication may be expunged only if two or more years have elapsed
13	since the person satisfied the most recent judgment against him. the following
14	conditions exist:
15	(1) The court exercising juvenile jurisdiction over the matter to which the
16	records pertain has ceased to exercise jurisdiction in accordance with Article 313.
17	(2) The person has no criminal court felony convictions and no criminal
18	court convictions for misdemeanors involving a weapon.
19	(3) The person has no outstanding indictment or bill of information charging
20	<u>him.</u>
21	C.(1) Records concerning conduct or conditions that resulted in a felony
22	adjudication may be expunged only if: When the adjudication was for murder,
23	manslaughter, a sex offense requiring registration pursuant to R, S, 15:542(A)(3),
24	kidnapping, or armed robbery and the person's case has been closed, he may petition
25	the court for an expungement of his juvenile record if the following conditions are
26	<u>met:</u>
27	(1) The adjudication was not for murder, manslaughter, any sexual crime,
28	kidnapping, or armed robbery.

1	(2) Five or more years have elapsed since the person satisfied the most recent
2	judgment against him.
3	(3)(a) The person has no criminal court felony convictions and no criminal
4	court convictions for misdemeanors involving a weapon.
5	(4)(b) The person has no outstanding indictment or bill of information
6	charging him.
7	(2) Prior to the granting of any expungement for an adjudication for murder,
8	manslaughter, a sex offense requiring registration pursuant to R.S. 15:542(A)(3),
9	kidnapping, or armed robbery, the prosecutor shall be notified and given an
10	opportunity to present evidence at a hearing in which the juvenile court will rule on
11	the expungement after considering the following:
12	(a) The best interests of the person.
13	(b) The age of the person during his or her contact with the juvenile court or
14	law enforcement agency.
15	(c) The nature of the offense.
16	(d) The disposition of the case.
17	(e) The manner in which the person participated in any court ordered
18	rehabilitative programming or supervised services.
19	(f) The time during which the person has been without contact with the
20	juvenile court or with any law enforcement agency.
21	(g) Whether the person has any subsequent criminal involvement.
22	(h) The adverse consequences the person will suffer as a result of retention
23	of his record.
24	D. Records concerning conduct or conditions that resulted in a misdemeanor
25	or felony adjudication for R.S. 14:82, 83.3, 83.4, 89, or 89.2 may be expunged upon
26	petition to the court and upon a showing that, during the time of the commission of
27	the offense, the person seeking the expungement was a victim of trafficking of
28	children for sexual purposes pursuant to R.S. 14:46.3(E) provided that the person has
29	no outstanding indictment or bill of information charging him.

# Page 9 of 20

1	Art. 919. Procedure for expungement
2	A. A person seventeen years of age or older may move for the expungement
3	of records and reports concerning the person's juvenile criminal conduct or
4	conditions.
5	B. The motion for expungement must be in writing made using the form
6	provided in Article 924 and must state facts that constitute grounds for expungement
7	under Article 918.
8	* * *
9	E. Unless waived by consent of the parties, Any person or agency which
10	objects to the granting of the motion for a matter that resulted in a delinquency
11	adjudication for a misdemeanor offense against the person or for a felony offense
12	shall file an affidavit of response in accordance with Article 925 and a contradictory
13	hearing must shall be conducted with the district attorney and any agency whose
10	
14	reports and records are sought to be expunged <u>and sealed</u> .
14	reports and records are sought to be expunged and sealed.
14 15	reports and records are sought to be expunged <u>and sealed</u> . F. If the court finds that the grounds have been established, and <del>that</del> the
14 15 16	reports and records are sought to be expunged <u>and sealed</u> . F. If the court finds that the grounds have been established, and <del>that</del> the person is entitled to expungement, the court <del>may</del> <u>shall</u> order <u>the</u> expungement.
14 15 16 17	reports and records are sought to be expunged <u>and sealed</u> . F. If the court finds that the grounds have been established, and <del>that</del> the person is entitled to expungement, the court <del>may</del> <u>shall</u> order <u>the</u> expungement. When possible such an order shall preferably be included within the judgment
14 15 16 17 18	reports and records are sought to be expunged <u>and sealed</u> . F. If the court finds that the grounds have been established, and <del>that</del> the person is entitled to expungement, the court <del>may</del> <u>shall</u> order <u>the</u> expungement. <u>When possible such an order shall preferably be included within the judgment</u> <u>indicating that the court has ceased to exercise such jurisdiction over the matter to</u>
14 15 16 17 18 19	reports and records are sought to be expunged <u>and sealed</u> . F. If the court finds that the grounds have been established, and <del>that</del> the person is entitled to expungement, the court <del>may</del> <u>shall</u> order <u>the</u> expungement. When possible such an order shall preferably be included within the judgment indicating that the court has ceased to exercise such jurisdiction over the matter to <u>be expunged</u> .
14 15 16 17 18 19 20	reports and records are sought to be expunged <u>and sealed</u> . F. If the court finds that the grounds have been established, and <del>that</del> the person is entitled to expungement, the court <del>may</del> <u>shall</u> order <u>the</u> expungement. When possible such an order shall preferably be included within the judgment indicating that the court has ceased to exercise such jurisdiction over the matter to <u>be expunged</u> . Art. 920. Order of expungement; court records
14 15 16 17 18 19 20 21	<ul> <li>reports and records are sought to be expunged <u>and sealed</u>.</li> <li>F. If the court finds that the grounds have been established, and that the person is entitled to expungement, the court may <u>shall</u> order <u>the</u> expungement. When possible such an order shall preferably be included within the judgment indicating that the court has ceased to exercise such jurisdiction over the matter to be expunged.</li> <li>Art. 920. Order of expungement; court records</li> <li>A. An order for the expungement of juvenile court records must <u>shall</u> be in</li> </ul>
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> </ol>	reports and records are sought to be expunged <u>and sealed</u> . F. If the court finds that the grounds have been established, and <del>that</del> the person is entitled to expungement, the court <del>may</del> <u>shall</u> order <u>the</u> expungement. When possible such an order shall preferably be included within the judgment indicating that the court has ceased to exercise such jurisdiction over the matter to <u>be expunged</u> . Art. 920. Order of expungement; court records A. An order for the expungement of juvenile court records <del>must</del> <u>shall</u> be in <del>writing</del> <u>the form provided in Article 924</u> and, except as hereinafter provided, <del>must</del>
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> </ol>	<ul> <li>reports and records are sought to be expunged <u>and sealed</u>.</li> <li>F. If the court finds that the grounds have been established, and that the person is entitled to expungement, the court may <u>shall</u> order <u>the</u> expungement. When possible such an order shall preferably be included within the judgment indicating that the court has ceased to exercise such jurisdiction over the matter to <u>be expunged</u>.</li> <li>Art. 920. Order of expungement; court records <ul> <li>A. An order for the expungement of juvenile court records <del>must</del> <u>shall</u> be in writing the form provided in Article 924 and, except as hereinafter provided, <del>must</del> <u>shall</u> require that the clerk of court destroy all records relating to the conduct or</li> </ul> </li> </ul>

## Page 10 of 20

1	Art. 921. Order of expungement; agency records
2	A. An order for the expungement of juvenile records must shall be in writing
3	the form provided in Article 924 and must require that both of the following occur:
4	* * *
5	D. A copy of the judgment order for expungement ordering destruction may
6	be maintained by the custodian of reports and records of the agency or office.
7	However, the custodian must not disclose the fact that such judgment is maintained
8	or that the destroyed reports or records previously existed to anyone except upon
9	written order of the court.
10	Art. 922. Expungement order; effect
11	<u>A.</u> Except for the limited purposes stated in Articles 920 and 921, upon an
12	order of expungement, the conduct and conditions expunged are considered
13	nonexistent and are to be treated as such upon inquiry.
14	B. With respect to the matter in which the record was expunged, the person
15	who is the subject of the record and the person's parent shall not be held under any
16	provision of any law to be guilty of perjury or otherwise giving false statements by
17	reason of the person's failure to recite or acknowledge the record or response to any
18	inquiry made of the person or the person's parent for any purpose, However, if the
19	person is to testify as a witness in a criminal or juvenile delinquency case, the person
20	may be ordered to testify about the expunged case.
21	* * *
22	Art. 924. Expungement; forms
23	A. The following form shall be used for filing a motion, setting a
24	contradictory hearing, and ordering the expungement of juvenile reports and records:

	HLS 17RS-951 ORIGINAL HB NO. 514
1	" <u>STATE OF LOUISIANA</u>
2	JUVENILE COURT FOR THE PARISH OF
3	<u>No.</u> <u>Division:</u> " "
4	Filed:
5	State of Louisiana
6	in the interests of
7	Date of Birth: / /
8	MOTION FOR EXPUNGEMENT
9	NOW INTO COURT COMES , in proper person or
10	through undersigned counsel, and herein moves this Honorable Court:
11	(1) To order the expungement of all reports and records, including but not
12	limited to the record of arrest and order of disposition concerning the below
13	described conduct or condition, and directing all officials, agencies, institutions,
14	boards, and systems, including their employees, agents, consultants, and special
15	committees, to expunge any record in any form concerning the arrest of the mover,
16	whether on microfilm, computer card or tape, or any other photographic, fingerprint,
17	DNA, or any other information of any and all kinds or descriptions; and
18	(2) To direct each agency and law enforcement office having any such
19	records, including but not limited to the above named entities, to file a sworn
20	affidavit with the Clerk of Court for Juvenile Court to the effect that such records
21	have been expunged and that no notation or reference has been retained in any
22	central depository which could or might lead to the inference that the expunged
23	record was ever on file with that agency or law enforcement office, except as
24	otherwise specifically provided by law.

Page 12 of 20

1		<u>I.</u>
2	Full name of mover:	
3	<u>SEX: { } Male { } Female</u>	Social Security No.:
4	Race/Ethnicity:	Date of Birth: / /
5	Address: Street:	<u>Apt. #:</u>
6	City/State:	Zip:
7	NOTE: A separate page sho	all be completed for EACH of the charges for
8	which the expungement is sought. I	Failure to provide ALL of the requested
9	information may result in dismissal	of the motion for insufficiency.
10		<u>II.</u>
11	Offense Report #:	Offense Charged:
12	Date of Arrest: / /	
13	Arresting Agency:	
14	City/Parish of Arrest:	
15	<u>III.</u>	
16	Action Taken: (Check appropriate action and insert date)	
	() A dividual of	
17	{ } Adjudicated on	/ /
17 18	· · · · ·	/ / <u>IV.</u>
	· · · · ·	/ / <u>IV.</u> , <u>#</u>
18	· · · · · ·	<u>, #</u>
18 19	Court Docket and Complaint #: Authority for motion (Check only or	<u>, #</u>
18 19 20	Court Docket and Complaint #: Authority for motion (Check only or	<u>, #</u> ne) cised juvenile jurisdiction no longer exercises
18 19 20 21	Court Docket and Complaint #: Authority for motion (Check only of { } AND the court which had exert such in accordance with Children's of	<u>, #</u> ne) cised juvenile jurisdiction no longer exercises
18 19 20 21 22	Court Docket and Complaint #: Authority for motion (Check only of { } AND the court which had exerc such in accordance with Children's ( { } AND the adjudication was not	<u>, #</u> ne) cised juvenile jurisdiction no longer exercises Code Article 313.
<ol> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> </ol>	Court Docket and Complaint #: Authority for motion (Check only of { } AND the court which had exerc such in accordance with Children's ( { } AND the adjudication was not	<u>, #</u> ne) cised juvenile jurisdiction no longer exercises Code Article 313. for murder, manslaughter, a sex offense
<ol> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> </ol>	Court Docket and Complaint #: Authority for motion (Check only or { } AND the court which had exert such in accordance with Children's ( { } AND the adjudication was not requiring registration pursuant to R. robbery.	<u>, #</u> ne) cised juvenile jurisdiction no longer exercises Code Article 313. for murder, manslaughter, a sex offense
<ol> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> </ol>	Court Docket and Complaint #: Authority for motion (Check only or { } AND the court which had exert such in accordance with Children's ( { } AND the adjudication was not requiring registration pursuant to R. robbery.	<u>, #</u> ne) cised juvenile jurisdiction no longer exercises Code Article 313. for murder, manslaughter, a sex offense S. 15:542(A)(3), kidnapping, or armed

1	WHEREFORE, mover prays there be an order herein in favor of mover, ordering			
2	all agencies, offices, or organizations to e	all agencies, offices, or organizations to expunge and seal their records or reports		
3	concerning the conduct or condition of me	concerning the conduct or condition of mover as a child as more fully described		
4	herein.	herein.		
5	Respectfully submitted,			
6	Name of Mover or Attorney	Name of Mover or Attorney		
7	Address	Address		
8	City/State/Zip	City/State/Zip		
9	Phone			
10	ORDER	ORDER		
11	CONSIDERING the above and foregoing	CONSIDERING the above and foregoing:		
12	IT IS ORDERED that a contradictory hea	IT IS ORDERED that a contradictory hearing be and is hereby set for the		
13	<u>day of</u> , 20 <u>at</u>	in Section		
14	, Louisiana this	<u>day of 20</u> .		
15				
16		Judge		
17	Note: Please add any additional necessa	Note: Please add any additional necessary agencies below.		
18	PLEASE SERVE:			
19	Parish of			
20	District Attorney Clerk of Court			
21	Bureau of Identification & Information Sheriff			
22	Attn: Expungement	Attn: Expungement		
23	7919 Independence Blvd.			
24	Baton Rouge, Louisiana 70806	Baton Rouge, Louisiana 70806		
25	and			
26	Name of Agency	Name of Agency		
27	Attn:	Attn:		
28	Address	Address		
29	City/State/Zip	City/State/Zip		

1	B. The following form shall be used to order the expungement:				
2	STATE OF LOUISIANA				
3		JUVENILE COURT FOR THE PARISH OF			
4	<u>No.</u>			Division: "	
5	Filed:				
6	State of Louisiana				
7		in the interests of			
8					
9	Date of Bi	<u>rth:</u> / /			
10		ORDER OF E	<u>XPUNGEMENT</u>		
11	<u>CC</u>	ONSIDERING the Motion	for Expungement and	the evidence adduced as	
12	to the folle	owing described matter,	and as to the followin	g described conduct or	
13	conditions:				
14	Item #'s	Offense(s) Charged	Date of Arrest(s)	Arresting Agencies	
15	 IT	IS ORDERED that the cle	nt of court or pup co of	I reports and records in	
15				•	
10	any medium, including but not limited to pleadings, exhibits, reports, minute entries,				
17	correspondence, and all other documents. The court may maintain a confidential				
10	record of the fact of an adjudication, which may be released only upon written				
20	motion of a court exercising criminal jurisdiction over the mover herein and then				
20	only for the purposes authorized by law.				
21	IT IS FURTHER ORDERED that all officials, agencies, institutions, boards,				
	systems, and law enforcement officers and their employees, agents, and consultants				
23	expunge all reports and records, in any medium, concerning the above described				
24	matter, whether on microfilm, computer card or tape, or any other photographic				

1	fingerprint, DNA, or any other information of any and all kinds and descriptions.			
2	The custodian of reports and records of the agency or office may maintain a copy of			
3	this order. However, the custodian shall not disclose the fact that an order is			
4	maintained or that the expunged reports	maintained or that the expunged reports or records previously existed except upon		
5	written order of the court.			
6	IT IS FURTHER ORDERED that each agency and law enforcement office			
7	herein served and having any reports or records of the conduct or condition file a			
8	sworn affidavit with the Clerk of Court	for Juvenile Court, to the effect that the		
9	reports and records have been expunged a	nd that no notation or references have been		
10	retained in any central depository which c	ould or might lead to the inference that any		
11	report or record was on file with the agend	cy or law enforcement office served, which		
12	affidavit shall be filed with the Clerk of	Court of Juvenile Court for the parish of		
13	within da	ys of service of this order.		
14	Signed at , Louisia	ana this <u>day of</u> , 20.		
15				
16		Judge		
17	Note: Please add any necessary agencie	es below.		
18	PLEASE SERVE:			
19	Parish of			
20	District Attorney	Clerk of Court		
21	Bureau of Identification & Information Sheriff			
22	Attn: Expungement			
23	7919 Independence Blvd.			
24	Baton Rouge, Louisiana 70806			
25	and			
26	Name of Agency	Name of Agency		
27	Attn:	<u>Attn:</u>		
28	Address	Address		
29	City/State/Zip	City/State/Zip"		

1	Art. 925 Affidavit response form	
2	The following form shall be used for filing an affidavit of response to a	
3	motion for expungement in accordance with Article 919.	
4	"STATE OF LOUISIANA	
5	JUVENILE COURT FOR THE PARISH OF	
6	<u>No.</u> <u>Division:</u> "	
7	Filed:	
8	State of Louisiana	
9	in the interests of	
10	Date of Birth: / /	
11	AFFIDAVIT FOR RESPONSE	
12	Pursuant to Children's Code Article 919, the Respondent agency or office,	
13	, acknowledges the following:	
14	{ } No Opposition. Respondent respectfully consents to waiver of the	
15	contradictory hearing.	
16	{ } Opposition to the Motion of Expungement with Reasons. Respondent	
17	respectfully requests a contradictory hearing.	
18	As grounds for its objection, the responding party asserts as follows:	
19	$\{$ $\}$ Insufficient time has passed since the conclusion of the matter or the court is	
20	still exercising jurisdiction.	
21	{ } The adjudication was for a felony offense and the applicant has an adult	
22	felony conviction.	
23	$\{$ $\}$ The adjudication was for a felony offense and the applicant has an adult	
24	misdemeanor conviction involving a weapon.	
25	{ } The applicant has a pending indictment or bill of information charging him.	
26	Respectfully submitted,	
27		
28	Name of Respondent/Signature of Attorney	
29	Address	

1	City/State/Zip	
2	Phone	
3	PLEASE SERVE:	
4	Parish of	
5	District Attorney	Clerk of Court
6	Bureau of Identification & Information	Sheriff
7	Attn: Expungement	
8	7919 Independence Blvd.	
9	Baton Rouge, Louisiana 70806	
10	and	
11	Name of Agency	Name of Agency
12	Attn:	Attn:
13	Address	Address
14	City/State/Zip	City/State/Zip"

#### 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 514 Original	2017 Regular Session	Armes
IID J 14 Ofiginal	2017 Regular Session	Annes

Abstract: Provides relative to the confidentiality and expungement of juvenile records.

<u>Present law</u> requires the La. Bureau of Criminal Identification and Information bureau to issue rules and regulations, consistent with the U.S. Dept. of Justice requirements, governing the maintenance of privacy and security of criminal history records.

<u>Proposed law</u> requires the bureau to issue rules and regulations governing the maintenance of privacy and security of juvenile records, and requires all rules and regulations in this regard to be consistent with La. laws and constitution.

<u>Present law</u> requires state police to remove all records and identifiable information in the data base or data bank pertaining to the person and to destroy all samples from the person upon receipt of a written request for the removal.

<u>Proposed law</u> adds juvenile records to this <u>present law</u> requirement and further provides that juvenile records are not responsive to any requests for a background check.

<u>Present law</u> provides that all records and reports concerning all matters or proceedings before the juvenile court, except for traffic violations, are confidential and shall not be disclosed except as expressly authorized. <u>Present law</u> further provides that when such

#### Page 18 of 20

information is relevant and necessary to the performance of an individuals duties and enhances services to the child or his family, the court is authorized to release the records, reports, or certain information contained in the records and reports, to appropriate individuals.

<u>Proposed law</u> amends <u>present law</u> to provide that the court may authorize the release of the records, reports, or certain information contained in the records or reports, to appropriate individuals only when they are providing services to the child whose records are disclosed during the pendency of the matter.

<u>Present law</u> provides that when the information contained in a record or report is necessary to a specific investigation or proceeding, the court may order the release of individual records and reports, or certain information contained therein, to a petitioner, for the specific purpose for which the court authorizes release.

<u>Proposed law</u> retains <u>present law</u> and requires the juvenile court to provide notice to the juvenile and his attorney of the petition and an opportunity to object. <u>Proposed law</u> also requires the court to hold a hearing on the petition if requested by the petitioner or juvenile, and requires the petition to state the reason for requesting the information, the use of the information, and the names of the persons who will have access to the information.

<u>Present law</u> authorizes the district attorney or the court to release to the victim of a delinquent act constituting a crime of violence, or to the victim's legal representative or designated family member, certain information contained in the predisposition report to the court.

<u>Proposed law</u> requires each person, other than the juvenile who is the subject of the record, his parents, and his attorney, to whom a juvenile record or information from a juvenile record is to be disclosed, to execute a nondisclosure agreement relative to the record or information.

<u>Present law</u> authorizes the release of certain reports and records concerning juvenile court proceeding to the sentencing judge for purposes of sentencing and to the district attorney for purposes of charging the offender as a habitual offender.

<u>Proposed law</u> deletes the requirement that the reports and records be released to the district attorney.

<u>Proposed law</u> provides that it is the duty of the person's attorney to inform the person of the consequences of being adjudicated delinquent, the definition of expungement, and the timelines for expungement.

<u>Present law</u> provides relative to the expungement of juvenile records.

<u>Proposed law</u> amends the grounds and requirements for obtaining an expungement relative to the following:

- (1) Records concerning conduct that did not result in an adjudication and those for certain offenses related to sexual exploitation.
- (2) Records concerning conduct that resulted in delinquency adjudication.
- (3) Records concerning an adjudication for murder, manslaughter, certain sex offenses, kidnapping, or armed robbery.

<u>Proposed law</u> provides that there are no costs for filing a petition requesting an expungement of a juvenile record, for the court to issue an order of expungement, or for agencies to physically expunge the records.

#### Page 19 of 20

<u>Proposed law</u> provides for and requires the use of forms for filing a motion, setting a contradictory hearing, and ordering the expungement of juvenile reports and records. Further provides a form for filing an affidavit of response to a motion for expungement.

(Amends R.S. 15:579, 593, and 614(B), and Ch.C. Arts. 412(A), (D)(intro. para.), (9), and (10), (E), (G)(4), (H), (I), (J), and (K), 414(A), 917, 918, 919(A), (B), (E), and (F), 920(A), 921(A)(intro. para.) and (D), and 922; Adds R.S. 15:614(C) and Ch.C. Arts. 405(H), 412(L) and (M), 901(G) and (H), 924, and 925); Repeals Ch.C. Art. 412(D)(11) and (12)