HLS 21RS-850 ENGROSSED

2021 Regular Session

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HOUSE BILL NO. 604

BY REPRESENTATIVES JAMES AND MARCELLE

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

To amend and reenact Code of Criminal Procedure Articles 971(7), 973(E), 974(B) and (C), 976, 977(A)(introductory paragraph) and (2), (B), and (C)(introductory paragraph) and (1), 978(A)(introductory paragraph) and (2), (B)(introductory paragraph), (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, to enact Code of Criminal Procedure Articles 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), and to repeal Code of Criminal Procedure Articles 978(E)(2), 984, and 996, relative to expungement; to provide relative to legislative findings; to provide for definitions; to provide relative to the dissemination of expunged records by third parties and court order; to provide relative to petitionbased expungement of a record of arrest that did not result in conviction; to provide relative to petition-based expungement of a record of arrest and conviction of a misdemeanor and felony offenses; to provide relative to service of a petition-based motion to expunge a record; to provide relative to petition-based contradictory hearings; to provide relative a judgement granting a petition-based motion to expunge a record of arrest or conviction; to provide relative to service of order and judgement of petition-based expungement; to provide relative to expungement by redaction of records with references to multiple individuals; to provide relative to interim petition-based motion to expunge a felony arrest; to provide relative to forms the expungement of records; to provide relative to government-initiated

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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expungement of a fingerprinted record of arrest that did not result in conviction; to provide relative to government-initiated expungements; to provide relative to government-initiated expungement of a fingerprinted record of arrest and conviction of a misdemeanor and felony offenses; to provide relative to certificate of compliance confirming a government-initiated expungement; to provide relative to the transmission of data to complete, serve, and confirm a government-initiated expungement; to provide relative to the costs of a petition-based expungement; to provide relative interim petition-based motions to expunge a felony arrest from criminal history; to provide relative to the requirements for expungement of records involving the operation of a motor vehicle while intoxicated; to provide relative for effectiveness; and to provide for related matters. Be it enacted by the Legislature of Louisiana: Section 1. Code of Criminal Procedure Articles 971(7), 973(E), 974(B) and (C), 979(section heading), 980(section heading), 981, 982(section heading), 983(I), 985, 985.1(C), 986(A), 987, and 992 are hereby amended and reenacted and Code of Criminal Procedure Articles 971(8), 972(5) through (14), 976.2, 977.2, 978.1, and 983(J) are hereby enacted to read as follows: Art. 971. Legislative findings The legislature hereby finds and declares the following: (7) Automatic, government-initiated, criminal record-clearing removes the burden of filing a court petition, is intended to reduce recidivism, and will benefit the economy. (8) In balancing the legitimate needs of law enforcement agencies and the desire to afford employment opportunities to all Louisiana citizens, the Louisiana Legislature enacts the provisions of this Title within the Code of Criminal Procedure. Art. 972. Definitions As used in this Title:

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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	<u>981.1.</u>
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 identifying a person
14	included in the Automatic Fingerprint Identification System (AFIS) that is
15	transferred to the criminal history repository operated by the Louisiana Bureau of
16	Criminal Identification and Information.
17	(10) "Government-initiated expungement" means the removal from public
18	access of eligible criminal history record information contained in the Criminal
19	Repository and Case Management Information System (CMIS) through the
20	automated process described in this Title.
21	(11) "Non-fingerprinted record of arrest" means a record or portion of a
22	record of citation, summons, or arrest, not including traffic offenses as provided for
23	in Title 32 of the Louisiana Revised Statutes of 1950 that does not create or result in
24	a fingerprinted or biometric record transferred to the criminal repository operated by
25	the Louisiana Bureau of Criminal Identification and Information.
26	(12) "Petition-based expungement" means a manual paper based process
27	initiated by an attorney or person with a record who may be eligible for an
28	expungement and files the motion and paperwork as required by this Title.

1	(13) "Sentence date" means the date upon which a judge or jury imposes a
2	sentence for the disposition of charges adverse to the defendant, including a plea of
3	guilty or nolo contendere by the defendant, or the finding of guilt by a judge or jury,
4	including any sentence of deferred adjudication.
5	(14) "Sentence duration" means the period of time that a person convicted
6	of a felony or misdemeanor serves for any sentence including time in custody,
7	deferred adjudication, or period of probation or parole based on the felony
8	conviction.
9	* * *
10	Art. 973. Effect of expunged record of arrest or conviction
11	* * *
12	E. Nothing in this Article shall be construed to limit or impair in any way the
13	subsequent use of any expunged record of any arrests or convictions by a judge, law
14	enforcement agency, criminal justice agency, or prosecutor including its use as a
15	predicate offense, for the purposes of the Habitual Offender Law, setting bail,
16	sentencing, or as otherwise authorized by law.
17	* * *
18	Art. 974. Dissemination of expunged records by third parties; court order
19	* * *
20	B. The A person obtaining the a petition-based expungement shall send
21	notice of the order of expungement by certified or registered mail with return receipt
22	requested and a certified copy of the order of expungement.
23	C. A private third-party entity that publicly disseminates criminal history
24	information in violation of this Article after having received notice as provided for
25	in Paragraph B of this Article or through a notification process established by the
26	courts, may be liable for any actual damages, court costs, and attorney fees that are
27	incurred by the person whose criminal history was disseminated.
28	* * *

1	Art. 976.2. Petition-based expungement of a record of arrest that did not result in
2	<u>conviction</u>
3	A. A person may file a motion to expunge a record of his arrest for a felony
4	or misdemeanor offense that did not result in a conviction if any of the following
5	apply:
6	(1) The person was not prosecuted for the offense for which he was arrested,
7	and the limitations on the institution of prosecution have barred the prosecution for
8	that offense.
9	(2) The district attorney for any reason declined to prosecute any offense
10	arising out of that arrest, including the reason that the person successfully completed
11	a pretrial diversion program.
12	(3) Prosecution was instituted and such proceedings have been finally
13	disposed of by dismissal, with prejudice, sustaining a motion to quash with
14	prejudice, or acquittal.
15	(4) The person was judicially determined to be factually innocent and
16	entitled to compensation for a wrongful conviction pursuant to the provisions of R.S.
17	15:572.8. The person may seek to have the arrest and conviction which formed the
18	basis for the wrongful conviction expunged without the limitations or time delays
19	imposed by the provisions of this Article or any other provision of law to the
20	contrary.
21	(5) The criminal repository or Case Management Information System did not
22	complete an expungement under Articles 976 or 976.1 and the person is otherwise
23	eligible under this Article.
24	B. Pursuant to R.S. 15:578.1, no person arrested for a violation of R.S. 14:98
25	(operating a vehicle while intoxicated) or a parish or municipal ordinance that
26	prohibits operating a vehicle while intoxicated, impaired, or while under the
27	influence of alcohol, drugs, or any controlled dangerous substance, and placed by the
28	prosecuting authority into a pretrial diversion program, shall be entitled to an
29	expungement of the record until five years have elapsed since the date of arrest for

1	that offense. A person may file a motion to expunge his record of arrest if the
2	criminal repository or Case Management Information System did not complete an
3	expungement under Articles 976 or 976.1, and the person is otherwise eligible under
4	this Article.
5	C. The motion to expunge a record of arrest that did not result in a
6	conviction of a misdemeanor or felony offense shall be served pursuant to the
7	provisions of Article 979.
8	* * *
9	Art. 977.2. Petition-based expungement of a record of arrest and conviction of a
10	misdemeanor offense
11	A. A person may file a motion to expunge his record of arrest and conviction
12	of a misdemeanor offense if either of the following apply:
13	(1) The conviction was set aside and the prosecution was dismissed pursuant
14	to Article 894(B) of this Code.
15	(2) Five years have elapsed since the person completed any sentence,
16	deferred adjudication, or period of probation or parole, and the person has not been
17	convicted of any felony offense during the five-year period and has no felony charge
18	pending against him.
19	(3) A person may file a motion to expunge his record of arrest if the criminal
20	repository or Case Management Information System did not complete an
21	expungement under Articles 977 or 977.1 and the person is otherwise eligible under
22	this Article.
23	B. The motion to expunge a record of arrest and conviction of a misdemeanor
24	offense shall be served pursuant to the provisions of Article 979 of this Code.
25	C. No person shall be entitled to expungement of a record under any of the
26	following circumstances:
27	(1) The misdemeanor conviction arose from circumstances involving or is
28	the result of an arrest for a sex offense as defined in R.S. 15:541, except that an

1	interim expungement shall be available as authorized by the provisions of Article
2	<u>985.1.</u>
3	(2) The misdemeanor conviction was for domestic abuse battery.
4	(3) The misdemeanor conviction was for stalking (R.S. 14:40.2).
5	* * *
6	Art. 978.1. Petition-based expungement of record of arrest and conviction of a
7	<u>felony offense</u>
8	A. A person may file a motion to expunge his record of arrest and conviction
9	of a felony offense if any of the following apply:
10	(1) The conviction was set aside and the prosecution was dismissed pursuant
1	to Article 893(E).
12	(2) More than ten years have elapsed since the person completed any
13	sentence, deferred adjudication, or period of probation or parole based on the felony
14	conviction, and the person has not been convicted of any other criminal offense
15	during the ten-year period, and has no criminal charge pending against him. The
16	motion filed pursuant to this Subparagraph shall include a certification obtained from
17	the district attorney which verifies that, to his knowledge, the applicant has no
18	convictions during the ten-year period and no pending charges under a bill of
19	information or indictment.
20	(3) The person is entitled to a first offender pardon for the offense pursuant
21	to Article IV, Section 5(E)(1) of the Constitution of Louisiana, provided that the
22	offense is not defined as a crime of violence pursuant to R.S. 14:2(B) or a sex
23	offense pursuant to R.S. 15:541.
24	(4) A person may file a motion to expunge his record of arrest if the criminal
25	repository or Case Management Information System did not complete an
26	expungement under Article 977 or 977.1 and the person is otherwise eligible under
27	this Article.
28	B. No expungement shall be granted nor shall a person be permitted to file
29	a motion to expunge the record of arrest and conviction of a felony offense if the

1	person was convicted of the commission or attempted commission of any of the
2	following offenses:
3	(1) A crime of violence as defined by or enumerated in R.S. 14:2(B), unless
4	otherwise authorized in Paragraph D of this Article.
5	(2)(a) Notwithstanding any provision of Article 893, a sex offense or a
6	criminal offense against a victim who is a minor as each term is defined by R.S.
7	15:541, or any offense which occurred prior to June 18, 1992, that would be defined
8	as a sex offense or a criminal offense against a victim who is a minor had it occurred
9	on or after June 18, 1992.
10	(b) Any person who was convicted of carnal knowledge of a juvenile (R.S.
11	14:80) prior to August 15, 2001, is eligible for an expungement pursuant to the
12	provisions of this Title if the offense for which the offender was convicted would be
13	defined as misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the
14	offender been convicted on or after August 15, 2001. The burden is on the mover
15	to establish that the elements of the offense of conviction are equivalent to the
16	current definition of misdemeanor carnal knowledge of a juvenile as defined by R.S.
17	14:80.1. A copy of the order waiving the sex offender registration and notification
18	requirements issued pursuant to the provisions of R.S. 15:542(F) shall be sufficient
19	to meet this burden.
20	(3) A violation of the Uniform Controlled Dangerous Substances Law,
21	except for any of the following which may be expunged pursuant to the provisions
22	of this Title:
23	(a) A conviction for possession of a controlled dangerous substance as
24	provided for in R.S. 40:966(C), 967(C), 968(C), or 969(C), or 970(C).
25	(b) A conviction for possession of a controlled dangerous substance with the
26	intent to distribute.
27	(c) A conviction for a violation of the Uniform Controlled Dangerous
28	Substances Law which is punishable by a term of imprisonment of not more than
29	five years.

1	(d) A conviction for a violation of the Uniform Controlled Dangerous
2	Substances Law which may be expunged pursuant to Article 893(E).
3	(e) A conviction for a violation of the Uniform Controlled Dangerous
4	Substances Law for which the person is entitled to a first offender pardon pursuant
5	to Article IV, Section 5(E)(1) of the Constitution of Louisiana.
6	(4) The conviction was for domestic abuse battery.
7	C. The motion to expunge a record of arrest and conviction of a felony
8	offense shall be served pursuant to the provisions of Article 979.
9	D.(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 pertaining to a conviction of aggravated battery,
12	second degree battery, aggravated criminal damage to property, simple robbery,
13	purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the
14	following conditions are proven by the petitioner:
15	(a) More than ten years have elapsed since the person completed any
16	sentence, deferred adjudication, or period of probation or parole based on the felony
17	conviction.
18	(b) The person has not been convicted of any other criminal offense during
19	the ten-year period.
20	(c) The person has no criminal charge pending against him.
21	(2) The motion filed pursuant to this Paragraph shall include a certification
22	from the district attorney which verifies that, to his knowledge, the applicant has no
23	convictions during the ten-year period and no pending charges under a bill of
24	information or indictment. The motion shall be heard by contradictory hearing as
25	provided by Article 980.
26	* * *
27	Art. 979. Service of petition-based motion to expunge a record
28	* * *

1	Art. 980. Contradictory Petition-based contradictory hearing
2	* * *
3	Art. 981. Judgment granting petition-based motion to expunge a record of arrest or
4	conviction; execution
5	A judgment ordering a petition-based expungement of a record of arrest or
6	of conviction of a misdemeanor or felony offense shall be served as provided for in
7	Article 982 of this Code. The judgment shall not affect any persons or other entities
8	set forth in Article 979 or 982 of this Code who have not been served with the
9	motion and judgment ordering the expungement of a record.
10	* * *
11	Art. 982. Service of order and judgment of petition-based expungement
12	* * *
13	Art. 983. Costs of a petition-based expungement of a record; fees; collection;
14	exemptions; disbursements
15	* * *
16	I. Notwithstanding any provision of law to the contrary, an applicant for the
17	expungement of a record, other than as provided in Paragraphs F and G of this
18	Article, may proceed in forma pauperis in accordance with the provisions of Code
19	of Civil Procedure Article 5181 et seq. A person shall not be charged any costs for
20	a government-initiated expungement of their records.
21	* * *
22	Art. 985. Expungement by redaction of records with references to multiple
23	individuals
24	A. If a record includes the name of more than one individual and one or
25	more of the individuals is entitled to an expungement of an arrest or conviction
26	pursuant to the provisions of this Title, any individual entitled to an expungement
27	may petition the court to have records related to the arrest or conviction of the
28	individual expunged by redaction, or have their records expunged by the
29	government-initiated process described in this Title.

1	B. If the court grants the expungement by redaction with proper notice to all		
2	parties with the record, the name of the individual and all other identifying		
3	information regarding the individual granted the expungement by redaction shall be		
4	redacted from all records regarding the arrest and conviction. The redacted records		
5	shall be available for public access.		
6	C. The clerk of court shall not be liable for any damages resulting to any		
7	person or entity as a consequence of expunging or redacting or for the failure to		
8	expunge or redact any record where the expungement order or transmittal of data		
9	described in Article 981.1 or 981.2 does not specifically identify all locations of the		
10	records to be expunged or specify the information to be redacted.		
11	Art. 985.1. Interim petition-based motion to expunge a felony arrest from criminal		
12	history in certain cases resulting in a misdemeanor conviction		
13	* * *		
14	C. Except as provided in Paragraph D of this Article, an interim motion to		
15	expunge a felony arrest from criminal history shall follow the same procedures and		
16	fees established pursuant to the provisions of Article 979 et seq of this Code.		
17	* * *		
18	Art. 986. Forms for the expungement of records		
19	A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,		
20	994, and 995 of this Code shall be used for filing motions to expunge a record of an		
21	arrest which did not result in a conviction, for the expungement of a record of arrest		
22	and conviction of a misdemeanor or felony offense, or for an interim motion to		
23	expunge a felony offense which resulted in a misdemeanor conviction for petition-		
24	based expungement of a record of arrest or conviction as provided by this Title.		
25	* * *		
26	Art. 987. Motion to set aside conviction and dismiss prosecution; rule to show		
27	cause; order of dismissal forms to be used		
28	" STATE OF LOUISIANA		
29	JUDICIAL DISTRICT FOR THE PARISH OF		

1	
2	No.:
3	State of Louisiana
4	vs.
5	
6	MOTION TO SET ASIDE CONVICTION AND
7	DISMISS PROSECUTION
8	NOW INTO HONORABLE COURT, comes
9	☐ Defendant, OR
0	☐ Defendant through undersigned Counsel,
1	who moves that the conviction pursuant to Louisiana Code of Criminal Procedure
12	☐ Article 894(B) Misdemeanors, OR
13	☐ Article 893(E) Felonies
4	in the above numbered case be set aside and that the prosecution dismissed in
15	accordance with the Code of Criminal Procedure in that the period of the deferred
16	sentence has run and petitioner has successfully completed the terms of his
17	probation.
18	The mover is further identified below:
9	DOCKET NUMBER:
20	CHARGE:
21	DATE OF ARREST:
22	ARRESTING AGENCY:
23	CITY/PARISH OF ARREST:
24	The Mover prays that, after a contradictory hearing with the District Attorney's
25	Office, the Court order the above numbered case be set aside and that the prosecution
26	dismissed in accordance with the Code of Criminal Procedure.
27	Respectfully submitted,
28	
9	Signature of Attorney for Moyer/Defendant

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3 4		Attorney's Bar Roll No.
5 6		Address
7 8		City, State, ZIP Code
9 10 11		Telephone Number If not represented by counsel:
12 13		Signature of Mover/Defendant
14 15		Mover/Defendant Name
16 17		Address
18 19		City, State, ZIP Code
20 21		Telephone Number
22		STATE OF LOUISIANA
23		JUDICIAL DISTRICT FOR THE PARISH OF
24		
25	No.:	Division: ""
26		State of Louisiana
27		VS.
28		
29		RULE TO SHOW CAUSE

1	IT IS HEREBY ORDERED, that the District Attorney show cause on the
2	day of, 20, ato'clock _m why the foregoing
3	motion should not be granted.
4	THUS ORDERED AND SIGNED this day of
5	at, Louisiana,
6 7	JUDGE
8	PLEASE SERVE:
9	1. District Attorney:
10	2. Attorney for Defendant and/or Defendant
11	STATE OF LOUISIANA
12	JUDICIAL DISTRICT FOR THE PARISH OF
13	
14	No.: Division: ""
15	State of Louisiana
16	vs.
17	
18	ORDER OF DISMISSAL
19	Considering the Motion to Set Aside Conviction and Dismiss Prosecution, the
20	hearing conducted on the representation of the State of Louisiana of its consent hereto, and
21	that there is no opposition for any good cause appearing herein; IT IS ORDERED, ADJUDGED AND DECREED that this conviction is set aside and
2223	the prosecution dismissed for purposes of expungement.
2 <i>3</i> 24	THUS ORDERED AND SIGNED this day of, 20 at
2 4 25	, Louisiana.
26	, Louisiana.
27	JUDGE
28	PLEASE SERVE:
29	1. District Attorney:
30 31	2. Attorney for Defendant and/or Defendant

1	<u>3.</u>	Louis	iana Bureau of Criminal Identification and Information: Louisiana State
2 3		Police	e, Superintendent of Records, 7919 Independence Boulevard, Baton
4 5		Rouge	e, Louisiana 70806"
6			* * *
7	Art. 99	2. Or	der of expungement form to be used
8			STATE OF LOUISIANA
9		J	UDICIAL DISTRICT FOR THE PARISH OF
10			
11	No.: _		Division: ""
12			State of Louisiana
13			vs.
14			
15	ORDEI	R OF	EXPUNGEMENT OF ARREST/CONVICTION RECORD
16	Consid	lering 1	the Motion for Expungement
17		The h	earing conducted and evidence adduced herein, OR
18		Affida	avits of No Opposition filed,
19	IT IS	ORDE	CRED, ADJUDGED AND DECREED
20		THE	MOTION IS DENIED for No(s), , , , for the following
21		reason	ns (check all that apply):
22			More than five years have not elapsed since Mover completed the
23			misdemeanor conviction sentence.
24			Mover's misdemeanor conviction was not set aside and dismissed
25			pursuant to C.Cr.P. Art. 894(B).
26			More than ten years have not elapsed since Mover completed the
27			felony conviction sentence.
28			Mover was convicted of one of the following ineligible felony
29			offenses:
30			A violation of the Uniform Controlled Dangerous Substances Law
31			which is ineligible to be expunged.

1	An offense currently listed as a sex offense that requires registration
2	pursuant to R.S. 15:540 et seq., at the time the Motion was filed,
3	regardless of whether the duty to register was ever imposed.
4	An offense defined or enumerated as a "crime of violence" pursuant
5	to R.S. 14:2(B) at the time the Motion was filed.
6	The arrest and conviction being sought to have expunged is for
7	operating a motor vehicle while intoxicated and a copy of the proof
8	from the Department of Public Safety and Corrections, office of
9	motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).
10	Mover was convicted of a misdemeanor which arose from
11	circumstances involving a sex offense as defined in R.S. 15:541.
12	Mover was convicted of misdemeanor offense of domestic abuse
13	battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
14	Mover did not complete pretrial diversion.
15	The charges against the mover were not dismissed or refused.
16	Mover's felony conviction was not set aside and dismissed pursuant
17	to C.Cr.P. Art. 893(E).
18	Mover's felony conviction was not set aside and dismissed pursuant
19	to C.Cr.P. Art. 894(B).
20	Mover completed a DWI pretrial diversion program, but five years
21	have not elapsed since the mover's date of arrest.
22	Mover's conviction for felony carnal knowledge of a juvenile is not
23	defined as misdemeanor carnal knowledge of a juvenile had the
24	mover been convicted on or after August 15, 2001.
25	Mover was not convicted of a crime that would be eligible for
26	expungement as required by C.Cr.P. Art. 978(E)(1).
27	Mover has criminal charges pending against him.
28	Mover was convicted of a criminal offense during the ten-year
29	period.

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1	☐ Mover received a first offender pardon but for an ineligible offense.
2	☐ Mover did not receive a first offender pardon.
3	☐ Denial for any other reason provided by law with attached reasons for
4	denial.
5	☐ THE MOTION IS HEREBY GRANTED for No(s) and all
6	agencies are ordered to expunge the record of arrest/conviction and any photographs,
7	fingerprints, or any other such information of any kind maintained in connection with the
8	Arrest(s)/Conviction(s) in the above-captioned matter, which record shall be confidential and
9	no longer considered a public record, nor be available to other persons except a prosecutor,
10	member of a law enforcement agency, or a judge who may request such information in
11	writing certifying that such request is for the purpose of prosecuting, investigating, or
12	enforcing the criminal law, for the purpose of any other statutorily defined law enforcement
13	or administrative duties, or for the purpose of the requirements of sex offender registration
14	and notification pursuant to the provisions of R.S. 15:541 et seq. or upon an order of this
15	Court to any other person for good cause shown, or as otherwise authorized by law.
16	☐ THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT BY
17	REDACTION If the record includes more than one individual and the mover is entitled to
18	expungement by redaction pursuant to Code of Criminal Procedure Article 985, for No(s).
19	and all agencies are ordered to expunge the record of arrest/conviction and
20	any photographs, fingerprints, or any other such information of any kind maintained in
21	relation to the Arrest(s)/Conviction(s) in the above-captioned matter as they relate to the
22	mover only. The record shall be confidential and no longer considered a public record, nor
23	be available to other persons except a prosecutor, member of a law enforcement agency, or
24	a judge who may request such information in writing certifying that such request is for the
25	purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose of any
26	other statutorily defined law enforcement or administrative duties, or for the purpose of the
27	requirements of sex offender registration and notification pursuant to the provisions of R.S.
28	15:541 et seq. or upon an order of this Court to any other person for good cause shown, or
29	as otherwise authorized by law.

1	NAME:	
2	(Last, First, MI)	
3	DOB:/(MM/DD/YY)	
4	GENDER: Female Male	
5	SSN (last 4 digits): XXX-XX	
6	RACE:	
7	DRIVER LIC.#	
8	ARRESTING AGENCY:	
9	SID# (if available):	
10	ARREST NUMBER (ATN):	
11	AGENCY ITEM NUMBER:	
12	ARREST DATE:/(MM/DD/YY)	
13	THUS ORDERED AND SIGNED this day of,	20
14	at, Louisiana.	
15		
16	JUDGE	
17	PLEASE SERVE:	
18	1. District Attorney:	
19	2. Arresting Agency:	
20	3. Parish Sheriff:	
21	4. Louisiana Bureau of Criminal Identification and Information	
22	5. Attorney for Defendant (or defendant)	
23	6. Clerk of Court"	
24	Section 2. Code of Criminal Procedure Articles 976, 977(A)(introductory par	agraph)
25	and (2), (B), and (C)(introductory paragraph) and (1), and 978(A)(introductory paragraph)	agraph)
26	and (2), and (B)(introductory paragraph), (C), and (E)(1) are hereby amended and re	enacted
27	and Code of Criminal Procedure Articles 977(A)(3), and 981.1 are hereby enacted	to read
28	as follows:	

1	Art. 976. Motion to expunge Government-initiated expungement of a fingerprinted
2	record of arrest that did not result in a conviction
3	A. A person may file a motion to expunge a fingerprinted record of his arrest
4	for a felony or misdemeanor offense that did not result in a conviction if any shall
5	be expunged through government automation at the earliest of the following apply:
6	(1) The person was not prosecuted for the offense for which he was arrested,
7	and the limitations on the institution of prosecution have barred the prosecution for
8	that offense. The district attorney for any reason declined to prosecute any offense
9	out of that arrest, including the reason that the person successfully completed a
10	pretrial diversion program.
11	(2) The district attorney for any reason declined to prosecute any offense
12	arising out of that arrest, including the reason that the person successfully completed
13	a pretrial diversion program. Prosecution was instituted and such proceedings have
14	been finally disposed of by dismissal with prejudice, sustaining of a motion to quash
15	with prejudice, or acquittal.
16	(3) Prosecution was instituted and such proceedings have been finally
17	disposed of by dismissal, sustaining of a motion to quash, or acquittal. The person
18	was judicially determined to be factually innocent and entitled to compensation for
19	a wrongful conviction pursuant to the provisions of R.S. 15:572.8. The person may
20	seek to have the arrest and conviction which formed the basis for the wrongful
21	conviction expunged without the limitations or time delays imposed by the
22	provisions of this Article or any other provision of law to the contrary.
23	(4) The person was judicially determined to be factually innocent and
24	entitled to compensation for a wrongful conviction pursuant to the provisions of R.S.
25	15:572.8. The person may seek to have the arrest and conviction which formed the
26	basis for the wrongful conviction expunged without the limitations or time delays
27	imposed by the provisions of this Article or any other provision of law to the
28	contrary.

1	B. Pursuant to R.S. 15:578.1, no person arrested for a violation of R.S. 14:98
2	(operating a vehicle while intoxicated) or a parish or municipal ordinance that
3	prohibits operating a vehicle while intoxicated, impaired, or while under the
4	influence of alcohol, drugs, or any controlled dangerous substance, and placed by the
5	prosecuting authority into a pretrial diversion program, shall be entitled to an a
6	government-initiated expungement of the record until five years have elapsed since
7	the date of arrest for that offense.
8	C. The motion to expunge a record of arrest that did not result in a
9	conviction of a misdemeanor or felony offense shall be served pursuant to the
10	provisions of Article 979. The government-initiated expungement of a fingerprinted
11	record of arrest that did not result in a conviction of a misdemeanor or felony offense
12	shall be served pursuant to the provisions of Article 982.1.
13	* * *
14	Art. 977. Motion to expunge Government-initiated expungement of a fingerprinted
15	record of arrest and conviction of a misdemeanor offense
16	A. A person may file a motion to expunge his fingerprinted record of a
17	misdemeanor conviction and any underlying records of arrest associated with such
18	conviction record of arrest and conviction of a misdemeanor offense if either shall
19	be expunged through government automation by the criminal repository at the
20	<u>earliest</u> of the following apply :
21	* * *
22	(2) More than five Five years have elapsed since the person completed any
23	sentence, deferred adjudication, or period of completion of the sentence duration for
24	probation or parole, and the person has not been convicted of any felony offense
25	during the five-year period, and has no felony charge pending against him. The
26	motion filed pursuant to this Subparagraph shall include a certification obtained from
27	the district attorney which verifies that to his knowledge the applicant has no felony
28	convictions during the five-year period and no pending felony charges under a bill

of information or indictment.

1	B. The motion to expunge a record of arrest and conviction of a
2	misdemeanor offense shall be served pursuant to the provisions of Article 979 of this
3	Code. The criminal repository shall serve notice of this expungement pursuant to the
4	provisions of Article 982.1.
5	C. No person shall be entitled to a government-initiated expungement of a
6	record under any of the following circumstances:
7	(1) The misdemeanor conviction arose from circumstances involving or is
8	the result of an arrest for a sex offense as defined in R.S. 15:541 or there are
9	miscellaneous dispositions for misdemeanors in the criminal repository record that
10	include a sex offense without disposition, except that an interim expungement shall
11	be available as authorized by the provisions of Article 985.1 of this Code.
12	* * *
13	Art. 978. Motion to expunge Government-initiated expungement of a record of
14	arrest and conviction of a felony offense
15	A. Except as provided in Paragraph B of this Article, a person may file a
16	motion to expunge his record of arrest and Article 978.1, a conviction of a felony
17	offense if any of the and any underlying records of arrest associated with the
18	conviction record, shall be expunged through government automation by the criminal
19	repository at the earliest of the following apply:
20	* * *
21	(2) More than ten Ten years have elapsed since the person completed
22	completion of the sentence duration for any sentence, deferred adjudication, or
23	period of probation or parole based on the felony conviction, and the person has not
24	been convicted of any other fingerprinted criminal offense during the ten-year
25	period, and has no fingerprinted criminal charge pending against him. The motion
26	filed pursuant to this Subparagraph shall include a certification obtained from the

1	district attorney which verifies that, to his knowledge, the applicant has no
2	convictions during the ten-year period and no pending charges under a bill of
3	information or indictment.
4	* * *
5	B. No government-initiated expungement shall be granted nor shall a person
6	be permitted to file a motion to expunge the record of arrest and conviction of a
7	felony offense processed for a felony conviction with any underlying records of
8	arrest associated in the criminal repository if the person was convicted of the
9	commission or attempted commission of any of the following offenses:
10	* * *
11	C. The motion to expunge a record of arrest and conviction of a felony
12	offense shall be served pursuant to the provisions of Article 979. The criminal
13	repository shall serve notice of this expungement pursuant to the provisions of
14	Article 982.1.
15	* * *
16	E.(1) Notwithstanding any other provision of law to the contrary, after a
17	contradictory hearing, the court may order the expungement of the arrest and
18	conviction records of a person a government-initiated expungement shall be
19	processed for a felony conviction and any records associated with the arrest in the
20	criminal repository pertaining to a conviction convictions of aggravated battery,
21	second degree battery, aggravated criminal damage to property, simple robbery,
22	purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the
23	following conditions are proven by the petitioner apply:
24	(a) More than ten Ten years have elapsed since the person completed any
25	sentence, deferred adjudication, or period of probation or parole completion of the
26	sentence duration based on the felony conviction.
27	(b) The person has not been convicted of any other fingerprinted criminal
28	offense during the ten-year period.

1	(c) The person has no <u>fingerprinted</u> criminal charge pending against him.
2	* * *
3	Art. 981.1. Certificate of compliance confirming government-initiated expungement
4	of a fingerprinted record
5	A. The certificate of compliance shall include, at a minimum, the following
6	individual identifying information available from the criminal repository and shall
7	use the form provided under Article 992.1 and include the following, if available:
8	(1) Full legal name.
9	(2) Date of birth.
10	(3) Last four digits of the individual's social security number.
11	(4) Race of the individual.
12	(5) SID number for the individual.
13	(6) Arrest number or ATN for the individual.
14	(7) Agency item number.
15	(8) Arrest dates.
16	(9) Docket numbers and associated screening numbers.
17	(10) Arrest disposition.
18	(11) Charge.
19	(12) Final disposition.
20	(13) Disposition date.
21	(14) Sentencing and fines.
22	(15) Whether or not sentenced to hard labor.
23	B. For purposes of government-initiated expungement, the Louisiana Bureau
24	of Criminal Identification and Information shall transmit the available information
25	described in Paragraph A of this Article to the entities provided for in Article 982.1.
26	(1) Until August 1, 2025, the transmission of the available information shall
27	be at least once every ninety days.
28	(2) Beginning August 1, 2025, the transmission of available information
29	shall be at least once a month.

C. Upon request from an individual seeking confirmation of their
government-initiated expungement, the Louisiana Bureau of Criminal Identification
and Information shall generate and issue a certificate of compliance to the individual
listed on the certificate for the purposes of confirming a record has been expunged
through the government-initiated process. The individual seeking confirmation of
government-initiated expungement shall request the certificate through a right to
review or other process established by the Louisiana Bureau of Criminal
Identification and Information. The certificate shall not affect any persons or other
entities set forth in Article 982.1 who have not been served with the certificate of
compliance.
Section 3. Code of Criminal Procedure Articles 976.1, 977.1, 981.2, and 982.1 are
hereby enacted to read as follows:
Art. 976.1. Government-initiated expungement of a non-fingerprinted record of
arrest that did not result in conviction
A. A non-fingerprinted record of arrest for a misdemeanor offense that did
not result in a conviction shall be expunged through government automation at the
earliest of the following:
(1) The district attorney for any reason declined to prosecute any offense out
of that arrest, including the reason that the person successfully completed a pretrial
diversion program.
(2) Prosecution was instituted and such proceedings have been finally
disposed of by dismissal with prejudice, sustaining of a motion to quash with
prejudice, or acquittal.
(3) The person was judicially determined to be factually innocent and
entitled to compensation for a wrongful conviction pursuant to the provisions of R.S.
15:572.8. The person may seek to have the arrest and conviction which formed the
basis for the wrongful conviction expunged without the limitations or time delays
imposed by the provisions of this Article or any other provision of law to the
contrary.

1	B. Pursuant to R.S. 15:578.1, no person arrested for a violation of R.S. 14:98
2	(operating a vehicle while intoxicated) or a parish or municipal ordinance that
3	prohibits operating a vehicle while intoxicated, impaired, or while under the
4	influence of alcohol, drugs, or any controlled dangerous substance, and placed by the
5	prosecuting authority into a pretrial diversion program, shall be entitled to a
6	government-initiated expungement of the record until five years have elapsed since
7	the date of the arrest for that offense.
8	C. The government-initiated expungement of a non-fingerprinted record of
9	arrest that did not result in a conviction of a misdemeanor offense shall be served
10	pursuant to the provisions of Article 982.1 of this Code.
11	* * *
12	Art. 977.1. Government-initiated expungement of a record of arrest and conviction
13	of a non-fingerprinted misdemeanor offense
14	A. A non-fingerprinted record of a misdemeanor conviction and any
15	underlying records of arrest associated with such conviction shall be expunged
16	through automation by the Case Management Information System at the earliest of
17	the following:
18	(1) The conviction was set aside and the prosecution was dismissed pursuant
19	to Article 894(B).
20	(2) Five years have elapsed since the completion of the sentence duration for
21	any sentence, deferred adjudication, or period of probation or parole.
22	B. The Case Management Information System shall serve notice of this
23	expungement pursuant to the provisions of Article 982.1.
24	C. No person shall be entitled to a government-initiated expungement of a
25	record under any of the following circumstances:
26	(1) The misdemeanor conviction was for domestic battery.
27	(2) The misdemeanor conviction was for stalking (R.S. 14:40.2).
28	* * *

1	Art. 981.2. Transmission of data confirming government-initiated expungement of
2	a non-fingerprinted record
3	A. The transmission of data shall include the following individual identifying
4	information if available from the Case Management Information System:
5	(1) Full legal name.
6	(2) Date of birth.
7	(3) Last four digits of the individual's social security number.
8	(4) Race of the individual.
9	(5) SID number for the individual.
10	(6) Arrest number or ATN for the individual.
1	(7) Agency item number.
12	(8) Arrest dates.
13	(9) Docket numbers and associated screening numbers.
14	(10) Arrest disposition.
15	(11) Charge.
16	(12) Final disposition.
17	(13) Disposition date.
18	(14) Sentencing and fines.
19	(15) Whether or not sentenced to hard labor.
20	B. For purposes of government-initiated expungement, the Louisiana
21	Supreme Court Case Management Information System shall transmit the available
22	information described in Paragraph A of this Article to the entities provided for in
23	Article 982.1.
24	(1) Until August 1, 2025, the transmission of the available information shall
25	be at least once every ninety days.
26	(2) Beginning August 1, 2025, the transmission of available information
27	shall be at least once a month.
28	C. The available data described in Paragraph A of this Article related to a
29	non-fingerprinted record of arrest or conviction of a misdemeanor offense shall be

1	transmitted as provided for in Article 982.1. The transmission of data shall not affect
2	any persons or other entities not set forth in Article 982.1.
3	* * *
4	Art. 982.1. Transmission of data to complete and serve a government-initiated
5	fingerprinted and non-fingerprinted expungement
6	A. The Louisiana Bureau of Criminal Identification and Information through
7	the criminal repository shall transmit the available data provided in Article 981.1 by
8	United States mail or electronically to all of the following entities:
9	(1) The district attorney of the parish of conviction.
10	(2) The clerk of court of the parish of conviction.
11	(3) The arresting agency, if such agency is included in the arrest entry.
12	(4) The sheriff of the parish of conviction.
13	B. The Case Management Information System shall transmit the available
14	data provided in Article 981.2 by United States mail or electronically upon all of the
15	following entities:
16	(1) The district attorney of the parish of conviction.
17	(2) The Louisiana Bureau of Criminal Identification and Information.
18	(3) The clerk of court of the parish of conviction.
19	(4) The arresting agency.
20	(5) The sheriff of the parish of conviction.
21	Section 4. Code of Criminal Procedure Articles 978(E)(2), 984, and 996 are hereby
22	repealed in their entirety.
23	Section 5. The Louisiana State Law Institute is hereby authorized and directed to
24	renumber the terms defined in Code of Criminal Procedure Article 972 to ensure that such
25	terms are in alphabetical order.
26	Section 6. This Section and Sections 1 and 5 of this Act shall become effective on
27	August 1, 2021.
28	Section 7. This Section and Section 2 of this Act shall become effective on August
29	1, 2023.

- 1 Section 8. This Section and Section 3 of this Act shall become effective on August
- 2 1, 2024.
- 3 Section 9. This Section and Section 4 of this Act shall become effective on August
- 4 1, 2025.

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 604 Engrossed

2021 Regular Session

James

Abstract: Provides for a comprehensive revision of expungement laws, including petition-based and government-initiated criminal record-clearing.

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

<u>Proposed law provides for a comprehensive revision to present law provisions including the following major changes:</u>

- (1) Provides for definitions for the following terms: arrest date, Case Management Information System, certificate of compliance, criminal repository, fingerprinted record of arrest, government-initiated expungement, non-fingerprinted record of arrest, petition-based expungement, sentence date, and sentence duration.
- (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.

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

Proposed law provides for certain effective dates of proposed law.

(Amends C.Cr.P. Arts. 971(7), 973(E), 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)

Summary of Amendments Adopted by House

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

- 1. Change provisions regarding fingerprinted and non-fingerprinted arrest records for felony or misdemeanor offenses.
- 2. Remove provisions of <u>proposed law</u> regarding the transmission of data confirming government-initiated expungements.