

1 expungement by redaction of records with references to multiple individuals; to
 2 provide relative to interim petition-based motion to expunge a felony arrest; to
 3 provide relative to forms the expungement of records; to provide relative to
 4 government-initiated expungement of a fingerprinted record of arrest that did not
 5 result in conviction; to provide relative to government-initiated expungements; to
 6 provide relative to government-initiated expungement of a fingerprinted record of
 7 arrest and conviction of a misdemeanor and felony offenses; to provide relative to
 8 certificate of compliance confirming a government-initiated expungement; to
 9 provide relative to the transmission of data to complete, serve, and confirm a
 10 government-initiated expungement; to provide relative to the costs of a petition-
 11 based expungement; to provide relative interim petition-based motions to expunge
 12 a felony arrest from criminal history; to provide relative to the requirements for
 13 expungement of records involving the operation of a motor vehicle while
 14 intoxicated; to provide relative to liability of clerks of court with respect to
 15 expungements; to provide relative to remedies for incomplete expungements; to
 16 provide relative for effectiveness; and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. Code of Criminal Procedure Articles 971(7), 973(D) and (E), 974(B) and
 19 (C), 979(section heading), 980(section heading), 981, 982(section heading), 983(I), 985,
 20 985.1(C), 986(A), 987, and 992 are hereby amended and reenacted and Code of Criminal
 21 Procedure Articles 971(8), 972(5) through (14), 976.2, 977.2, 978.1, and 983(J) are hereby
 22 enacted to read as follows:

23 Art. 971. Legislative findings

24 The legislature hereby finds and declares the following:

25 * * *

26 (7) Automatic, government-initiated, criminal record-clearing removes the
 27 burden of filing a court petition, is intended to reduce recidivism, and will benefit the
 28 economy.

1 (8) In balancing the legitimate needs of law enforcement agencies and the
2 desire to afford employment opportunities to all Louisiana citizens, the Louisiana
3 Legislature enacts the provisions of this Title within the Code of Criminal Procedure.

4 Art. 972. Definitions

5 As used in this Title:

6 * * *

7 (5) "Arrest date" means the date of citation, summons, or booking date for
8 a state misdemeanor or felony charge.

9 (6) "Case Management Information System" (CMIS) is the system operated
10 by the Louisiana Supreme Court to receive and maintain criminal records related to
11 a defendant's criminal record and criminal court case.

12 (7) "Certificate of Compliance" means a document produced upon request
13 by the Louisiana Bureau of Criminal Identification and Information after a
14 government-initiated expungement has been fully processed, as provided in Article
15 981.1.

16 (8) "Criminal repository" means the criminal history record information
17 system as established and maintained by R.S. 15:578 by the Louisiana Bureau of
18 Criminal Identification and Information.

19 (9) "Fingerprinted record of arrest" means a fingerprint identifying a person
20 included in the Automatic Fingerprint Identification System (AFIS) that is
21 transferred to the criminal history repository operated by the Louisiana Bureau of
22 Criminal Identification and Information.

23 (10) "Government-initiated expungement" means the removal from public
24 access of eligible criminal history record information contained in the Criminal
25 Repository and Case Management Information System (CMIS) through the
26 automated process described in this Title.

27 (11) "Non-fingerprinted record of arrest" means a record or portion of a
28 record of citation, summons, or arrest, not including traffic offenses as provided for
29 in Title 32 of the Louisiana Revised Statutes of 1950 that does not create or result in

1 a fingerprinted or biometric record transferred to the criminal repository operated by
2 the Louisiana Bureau of Criminal Identification and Information.

3 (12) "Petition-based expungement" means a manual paper based process
4 initiated by an attorney or person with a record who may be eligible for an
5 expungement and files the motion and paperwork as required by this Title.

6 (13) "Sentence date" means the date upon which a judge or jury imposes a
7 sentence for the disposition of charges adverse to the defendant, including a plea of
8 guilty or nolo contendere by the defendant, or the finding of guilt by a judge or jury,
9 including any sentence of deferred adjudication.

10 (14) "Sentence duration" means the period of time that a person convicted
11 of a felony or misdemeanor serves for any sentence including time in custody,
12 deferred adjudication, or period of probation or parole based on the felony
13 conviction.

14 * * *

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

16 * * *

17 D.(1) Any person who fails to maintain the confidentiality of records as
18 required by the provisions of this Article shall be subject to contempt proceedings.

19 (2) Nothing in this Article shall be construed to create any cause of action
20 against a clerk of court for records not expunged pursuant to the provisions of
21 Articles 976, 976.1, 977, 977.1, or 978 when necessary data did not exist in the
22 records of the clerk of court for government-initiated expungement. In such
23 circumstances, the only remedies available to a person seeking expungement are to
24 provide the necessary information to the Louisiana State Police or the Case
25 Management Information System to complete the record or file a petition-based
26 expungement of the record.

27 E. Nothing in this Article shall be construed to limit or impair in any way the
28 subsequent use of any expunged record of any arrests or convictions by a judge, law
29 enforcement agency, criminal justice agency, or prosecutor including its use as a

1 predicate offense, for the purposes of the Habitual Offender Law, setting bail,
2 sentencing, or as otherwise authorized by law.

3 * * *

4 Art. 974. Dissemination of expunged records by third parties; court order

5 * * *

6 B. ~~The~~ A person obtaining ~~the~~ a petition-based expungement shall send
7 notice of the order of expungement by certified or registered mail with return receipt
8 requested and a certified copy of the order of expungement.

9 C. A private third-party entity that publicly disseminates criminal history
10 information in violation of this Article after having received notice as provided for
11 in Paragraph B of this Article or through a notification process established by the
12 courts, may be liable for any actual damages, court costs, and attorney fees that are
13 incurred by the person whose criminal history was disseminated.

14 * * *

15 Art. 976.2. Petition-based expungement of a record of arrest that did not result in
16 conviction

17 A. A person may file a motion to expunge a record of his arrest for a felony
18 or misdemeanor offense that did not result in a conviction if any of the following
19 apply:

20 (1) The person was not prosecuted for the offense for which he was arrested,
21 and the limitations on the institution of prosecution have barred the prosecution for
22 that offense.

23 (2) The district attorney for any reason declined to prosecute any offense
24 arising out of that arrest, including the reason that the person successfully completed
25 a pretrial diversion program.

26 (3) Prosecution was instituted and such proceedings have been finally
27 disposed of by dismissal, with prejudice, sustaining a motion to quash with
28 prejudice, or acquittal.

1 (2) Five years have elapsed since the person completed any sentence,
2 deferred adjudication, or period of probation or parole, and the person has not been
3 convicted of any felony offense during the five-year period and has no felony charge
4 pending against him.

5 (3) A person may file a motion to expunge his record of arrest if the criminal
6 repository or Case Management Information System did not complete an
7 expungement under Articles 977 or 977.1 and the person is otherwise eligible under
8 this Article.

9 B. The motion to expunge a record of arrest and conviction of a misdemeanor
10 offense shall be served pursuant to the provisions of Article 979 of this Code.

11 C. No person shall be entitled to expungement of a record under any of the
12 following circumstances:

13 (1) The misdemeanor conviction arose from circumstances involving or is
14 the result of an arrest for a sex offense as defined in R.S. 15:541, except that an
15 interim expungement shall be available as authorized by the provisions of Article
16 985.1.

17 (2) The misdemeanor conviction was for domestic abuse battery.

18 (3) The misdemeanor conviction was for stalking (R.S. 14:40.2).

19 * * *

20 Art. 978.1. Petition-based expungement of record of arrest and conviction of a
21 felony offense

22 A. A person may file a motion to expunge his record of arrest and conviction
23 of a felony offense if any of the following apply:

24 (1) The conviction was set aside and the prosecution was dismissed pursuant
25 to Article 893(E).

26 (2) More than ten years have elapsed since the person completed any
27 sentence, deferred adjudication, or period of probation or parole based on the felony
28 conviction, and the person has not been convicted of any other criminal offense
29 during the ten-year period, and has no criminal charge pending against him. The

1 motion filed pursuant to this Subparagraph shall include a certification obtained from
2 the district attorney which verifies that, to his knowledge, the applicant has no
3 convictions during the ten-year period and no pending charges under a bill of
4 information or indictment.

5 (3) The person is entitled to a first offender pardon for the offense pursuant
6 to Article IV, Section 5(E)(1) of the Constitution of Louisiana, provided that the
7 offense is not defined as a crime of violence pursuant to R.S. 14:2(B) or a sex
8 offense pursuant to R.S. 15:541.

9 (4) A person may file a motion to expunge his record of arrest if the criminal
10 repository or Case Management Information System did not complete an
11 expungement under Article 977 or 977.1 and the person is otherwise eligible under
12 this Article.

13 B. No expungement shall be granted nor shall a person be permitted to file
14 a motion to expunge the record of arrest and conviction of a felony offense if the
15 person was convicted of the commission or attempted commission of any of the
16 following offenses:

17 (1) A crime of violence as defined by or enumerated in R.S. 14:2(B), unless
18 otherwise authorized in Paragraph D of this Article.

19 (2)(a) Notwithstanding any provision of Article 893, a sex offense or a
20 criminal offense against a victim who is a minor as each term is defined by R.S.
21 15:541, or any offense which occurred prior to June 18, 1992, that would be defined
22 as a sex offense or a criminal offense against a victim who is a minor had it occurred
23 on or after June 18, 1992.

24 (b) Any person who was convicted of carnal knowledge of a juvenile (R.S.
25 14:80) prior to August 15, 2001, is eligible for an expungement pursuant to the
26 provisions of this Title if the offense for which the offender was convicted would be
27 defined as misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the
28 offender been convicted on or after August 15, 2001. The burden is on the mover
29 to establish that the elements of the offense of conviction are equivalent to the

1 current definition of misdemeanor carnal knowledge of a juvenile as defined by R.S.
2 14:80.1. A copy of the order waiving the sex offender registration and notification
3 requirements issued pursuant to the provisions of R.S. 15:542(F) shall be sufficient
4 to meet this burden.

5 (3) A violation of the Uniform Controlled Dangerous Substances Law,
6 except for any of the following which may be expunged pursuant to the provisions
7 of this Title:

8 (a) A conviction for possession of a controlled dangerous substance as
9 provided for in R.S. 40:966(C), 967(C), 968(C), or 969(C), or 970(C).

10 (b) A conviction for possession of a controlled dangerous substance with the
11 intent to distribute.

12 (c) A conviction for a violation of the Uniform Controlled Dangerous
13 Substances Law which is punishable by a term of imprisonment of not more than
14 five years.

15 (d) A conviction for a violation of the Uniform Controlled Dangerous
16 Substances Law which may be expunged pursuant to Article 893(E).

17 (e) A conviction for a violation of the Uniform Controlled Dangerous
18 Substances Law for which the person is entitled to a first offender pardon pursuant
19 to Article IV, Section 5(E)(1) of the Constitution of Louisiana.

20 (4) The conviction was for domestic abuse battery.

21 C. The motion to expunge a record of arrest and conviction of a felony
22 offense shall be served pursuant to the provisions of Article 979.

23 D.(1) Notwithstanding any other provision of law to the contrary, after a
24 contradictory hearing, the court may order the expungement of the arrest and
25 conviction records of a person pertaining to a conviction of aggravated battery,
26 second degree battery, aggravated criminal damage to property, simple robbery,
27 purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the
28 following conditions are proven by the petitioner:

1 I. ~~Notwithstanding any provision of law to the contrary, an applicant for the~~
 2 ~~expungement of a record, other than as provided in Paragraphs F and G of this~~
 3 ~~Article, may proceed in forma pauperis in accordance with the provisions of Code~~
 4 ~~of Civil Procedure Article 5181 et seq. A person shall not be charged any costs for~~
 5 ~~a government-initiated expungement of their records.~~

6 * * *

7 Art. 985. Expungement by redaction of records with references to multiple
8 individuals

9 A. If a record includes the name of more than one individual and one or
 10 more of the individuals is entitled to an expungement of an arrest or conviction
 11 pursuant to the provisions of this Title, any individual entitled to an expungement
 12 may petition the court to have records related to the arrest or conviction of the
 13 individual expunged by redaction, or have their records expunged by the
 14 government-initiated process described in this Title.

15 B. If the court grants the expungement by redaction with proper notice to all
 16 parties with the record, the name of the individual and all other identifying
 17 information regarding the individual granted the expungement by redaction shall be
 18 redacted from all records regarding the arrest and conviction. The redacted records
 19 shall be available for public access.

20 C. The clerk of court shall not be liable for any damages resulting to any
 21 person or entity as a consequence of expunging or redacting or for the failure to
 22 expunge or redact any record where the expungement order or transmittal of data
 23 described in Article 981.1 or 981.2 does not specifically identify all locations of the
 24 records to be expunged or specify the information to be redacted or when necessary
 25 data did not exist in the records of the clerk of court.

26 Art. 985.1. Interim petition-based motion to expunge a felony arrest from criminal
27 history in certain cases resulting in a misdemeanor conviction

28 * * *

1 C. Except as provided in Paragraph D of this Article, an interim motion to
2 expunge a felony arrest from criminal history shall follow the same procedures and
3 fees established pursuant to the provisions of Article 979 et seq of this Code.

4 * * *

5 Art. 986. Forms for the expungement of records

6 A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,
7 994, and 995 of this Code shall be used for filing motions ~~to expunge a record of an~~
8 ~~arrest which did not result in a conviction, for the expungement of a record of arrest~~
9 ~~and conviction of a misdemeanor or felony offense, or for an interim motion to~~
10 ~~expunge a felony offense which resulted in a misdemeanor conviction~~ for petition-
11 based expungement of a record of arrest or conviction as provided by this Title.

12 * * *

13 Art. 987. Motion to set aside conviction and dismiss prosecution; rule to show
14 cause; order of dismissal forms to be used

15 " **STATE OF LOUISIANA**
16 **JUDICIAL DISTRICT FOR THE PARISH OF**
17 _____
18 **No.:** _____ **Division:** " _____ "
19 **State of Louisiana**
20 **vs.**
21 _____

22 **MOTION TO SET ASIDE CONVICTION AND**
23 **DISMISS PROSECUTION**

24 NOW INTO HONORABLE COURT, comes
25 Defendant, OR
26 Defendant through undersigned Counsel,
27 who moves that the conviction pursuant to Louisiana Code of Criminal Procedure
28 Article 894(B) Misdemeanors, OR

1
2

Mover/Defendant Name

3
4

Address

5
6

City, State, ZIP Code

7
8

Telephone Number

STATE OF LOUISIANA

JUDICIAL DISTRICT FOR THE PARISH OF

11

12

No.: _____

Division: " _____ "

13

State of Louisiana

14

vs.

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RULE TO SHOW CAUSE

17

IT IS HEREBY ORDERED, that the District Attorney show cause on the _____

18

day of _____, 20 ____, at ____ o'clock __m why the foregoing

19

motion should not be granted.

20

THUS ORDERED AND SIGNED this ____ day of _____, 20 ____

21

at _____, Louisiana, _____.

22

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JUDGE

24

PLEASE SERVE:

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1. District Attorney: _____

26

2. Attorney for Defendant and/or Defendant _____

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STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF

No.: _____ **Division: " _____ "**

State of Louisiana

vs.

ORDER OF DISMISSAL

Considering the Motion to Set Aside Conviction and Dismiss Prosecution, the hearing conducted on the representation of the State of Louisiana of its consent hereto, and that there is no opposition for any good cause appearing herein;

IT IS ORDERED, ADJUDGED AND DECREED that this conviction is set aside and the prosecution dismissed for purposes of expungement.

THUS ORDERED AND SIGNED this _____ day of _____, 20__ at _____, Louisiana.

JUDGE

PLEASE SERVE:

1. District Attorney: _____
2. Attorney for Defendant and/or Defendant _____
3. Louisiana Bureau of Criminal Identification and Information: Louisiana State Police, Superintendent of Records, 7919 Independence Boulevard, Baton Rouge, Louisiana 70806"

* * *

Art. 992. Order of expungement form to be used

STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF

No.: _____ **Division: " _____ "**

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State of Louisiana

vs.

ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD

Considering the Motion for Expungement

- The hearing conducted and evidence adduced herein, OR
- Affidavits of No Opposition filed,

IT IS ORDERED, ADJUDGED AND DECREED

THE MOTION IS DENIED for No(s). , , , , for the following reasons (check all that apply):

- More than five years have not elapsed since Mover completed the misdemeanor conviction sentence.
- Mover's misdemeanor conviction was not set aside and dismissed pursuant to C.Cr.P. Art. 894(B).
- More than ten years have not elapsed since Mover completed the felony conviction sentence.
- Mover was convicted of one of the following ineligible felony offenses:
 - A violation of the Uniform Controlled Dangerous Substances Law which is ineligible to be expunged.
 - An offense currently listed as a sex offense that requires registration pursuant to R.S. 15:540 et seq., at the time the Motion was filed, regardless of whether the duty to register was ever imposed.
 - An offense defined or enumerated as a "crime of violence" pursuant to R.S. 14:2(B) at the time the Motion was filed.
 - ~~The arrest and conviction being sought to have expunged is for operating a motor vehicle while intoxicated and a copy of the proof from the Department of Public Safety and Corrections, office of motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).~~

1 member of a law enforcement agency, or a judge who may request such information in
2 writing certifying that such request is for the purpose of prosecuting, investigating, or
3 enforcing the criminal law, for the purpose of any other statutorily defined law enforcement
4 or administrative duties, or for the purpose of the requirements of sex offender registration
5 and notification pursuant to the provisions of R.S. 15:541 et seq. or upon an order of this
6 Court to any other person for good cause shown, or as otherwise authorized by law.

7 **THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT BY**
8 **REDACTION** If the record includes more than one individual and the mover is entitled to
9 expungement by redaction pursuant to Code of Criminal Procedure Article 985, for No(s).
10 _____ and all agencies are ordered to expunge the record of arrest/conviction and
11 any photographs, fingerprints, or any other such information of any kind maintained in
12 relation to the Arrest(s)/Conviction(s) in the above-captioned matter as they relate to the
13 mover only. The record shall be confidential and no longer considered a public record, nor
14 be available to other persons except a prosecutor, member of a law enforcement agency, or
15 a judge who may request such information in writing certifying that such request is for the
16 purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose of any
17 other statutorily defined law enforcement or administrative duties, or for the purpose of the
18 requirements of sex offender registration and notification pursuant to the provisions of R.S.
19 15:541 et seq. or upon an order of this Court to any other person for good cause shown, or
20 as otherwise authorized by law.

21 NAME: _____

22 (Last, First, MI)

23 DOB: ____ / ____ / ____ (MM/DD/YY)

24 GENDER: ____ Female ____ Male

25 SSN (last 4 digits): XXX-XX-_____

26 RACE: _____

27 DRIVER LIC.# _____

28 ARRESTING AGENCY: _____

29 SID# (if available): _____

1 ARREST NUMBER (ATN): _____

2 AGENCY ITEM NUMBER: _____

3 ARREST DATE: ____ / ____ / ____ (MM/DD/YY)

4 **THUS ORDERED AND SIGNED** this ____ day of _____, 20____

5 at _____, Louisiana.

6 _____

7 JUDGE

8 **PLEASE SERVE:**

9 1. District Attorney: _____

10 2. Arresting Agency: _____

11 3. Parish Sheriff: _____

12 4. Louisiana Bureau of Criminal Identification and Information _____

13 5. Attorney for Defendant (or defendant) _____

14 6. Clerk of Court _____"

15 Section 2. Code of Criminal Procedure Articles 976, 977(A)(introductory paragraph)
16 and (2), (B), and (C)(introductory paragraph) and (1), and 978(A)(introductory paragraph)
17 and (2), and (B)(introductory paragraph), (C), and (E)(1) are hereby amended and reenacted
18 and Code of Criminal Procedure Articles 977(A)(3), and 981.1 are hereby enacted to read
19 as follows:

20 Art. 976. ~~Motion to expunge~~ Government-initiated expungement of a fingerprinted
21 record of arrest that did not result in a conviction

22 A. A ~~person may file a motion to expunge a~~ fingerprinted record of ~~his~~ arrest
23 for a felony or misdemeanor offense that did not result in a conviction ~~if any~~ shall
24 be expunged through government automation at the earliest of the following ~~apply~~:

25 (1) ~~The person was not prosecuted for the offense for which he was arrested,~~
26 ~~and the limitations on the institution of prosecution have barred the prosecution for~~
27 ~~that offense.~~ The district attorney for any reason declined to prosecute any offense
28 out of that arrest, including the reason that the person successfully completed a
29 pretrial diversion program.

1 (2) ~~The district attorney for any reason declined to prosecute any offense~~
2 ~~arising out of that arrest, including the reason that the person successfully completed~~
3 ~~a pretrial diversion program. Prosecution was instituted and such proceedings have~~
4 ~~been finally disposed of by dismissal with prejudice, sustaining of a motion to quash~~
5 ~~with prejudice, or acquittal.~~

6 (3) ~~Prosecution was instituted and such proceedings have been finally~~
7 ~~disposed of by dismissal, sustaining of a motion to quash, or acquittal. The person~~
8 ~~was judicially determined to be factually innocent and entitled to compensation for~~
9 ~~a wrongful conviction pursuant to the provisions of R.S. 15:572.8. The person may~~
10 ~~seek to have the arrest and conviction which formed the basis for the wrongful~~
11 ~~conviction expunged without the limitations or time delays imposed by the~~
12 ~~provisions of this Article or any other provision of law to the contrary.~~

13 (4) ~~The person was judicially determined to be factually innocent and~~
14 ~~entitled to compensation for a wrongful conviction pursuant to the provisions of R.S.~~
15 ~~15:572.8. The person may seek to have the arrest and conviction which formed the~~
16 ~~basis for the wrongful conviction expunged without the limitations or time delays~~
17 ~~imposed by the provisions of this Article or any other provision of law to the~~
18 ~~contrary.~~

19 B. Pursuant to R.S. 15:578.1, no person arrested for a violation of R.S. 14:98
20 (operating a vehicle while intoxicated) or a parish or municipal ordinance that
21 prohibits operating a vehicle while intoxicated, impaired, or while under the
22 influence of alcohol, drugs, or any controlled dangerous substance, and placed by the
23 prosecuting authority into a pretrial diversion program, shall be entitled to ~~an~~ a
24 government-initiated expungement of the record until five years have elapsed since
25 the date of arrest for that offense.

26 C. ~~The motion to expunge a record of arrest that did not result in a~~
27 ~~conviction of a misdemeanor or felony offense shall be served pursuant to the~~
28 ~~provisions of Article 979. The government-initiated expungement of a fingerprinted~~

1 record of arrest that did not result in a conviction of a misdemeanor or felony offense
2 shall be served pursuant to the provisions of Article 982.1.

3 * * *

4 Art. 977. ~~Motion to expunge~~ Government-initiated expungement of a fingerprinted
5 record of arrest and conviction of a misdemeanor offense

6 A. ~~A person may file a motion to expunge his~~ fingerprinted record of a
7 misdemeanor conviction and any underlying records of arrest associated with such
8 conviction record of arrest and conviction of a misdemeanor offense if either shall
9 be expunged through government automation by the criminal repository at the
10 earliest of the following apply:

11 * * *

12 (2) ~~More than five~~ Five years have elapsed since the ~~person completed any~~
13 ~~sentence, deferred adjudication, or period of~~ completion of the sentence duration for
14 probation or parole, and the person has not been convicted of any felony offense
15 during the five-year period, and has no felony 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 felony
18 convictions during the five-year period and no pending felony charges under a bill
19 of information or indictment.

20 B. ~~The motion to expunge a record of arrest and conviction of a~~
21 ~~misdemeanor offense shall be served pursuant to the provisions of Article 979 of this~~
22 ~~Code.~~ The criminal repository shall serve notice of this expungement pursuant to the
23 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 ~~arose from circumstances involving or is~~
27 the result of an arrest for a sex offense as defined in R.S. 15:541 or there are
28 miscellaneous dispositions for misdemeanors in the criminal repository record that

1 include a sex offense without disposition, except that an interim expungement shall
2 be available as authorized by the provisions of Article 985.1 of this Code.

3 * * *

4 Art. 978. ~~Motion to expunge~~ Government-initiated expungement of a record of
5 arrest and conviction of a felony offense

6 A. Except as provided in ~~Paragraph B of this Article~~, a person may file a
7 ~~motion to expunge his record of arrest and~~ Article 978.1, a conviction of a felony
8 offense if any of the and any underlying records of arrest associated with the
9 conviction record, shall be expunged through government automation by the criminal
10 repository at the earliest of the following apply:

11 * * *

12 (2) ~~More than ten~~ Ten years have elapsed since the ~~person completed~~
13 completion of the sentence duration for any sentence, deferred adjudication, or
14 period of probation or parole based on the felony conviction, and the person has not
15 been convicted of any other fingerprinted criminal offense during the ten-year
16 period, and has no fingerprinted criminal charge pending against him. The motion
17 filed pursuant to this Subparagraph shall include a certification obtained from the
18 district attorney which verifies that, to his knowledge, the applicant has no
19 convictions during the ten-year period and no pending charges under a bill of
20 information or indictment.

21 * * *

22 B. No government-initiated expungement shall be ~~granted nor shall a person~~
23 ~~be permitted to file a motion to expunge the record of arrest and conviction of a~~
24 felony offense processed for a felony conviction with any underlying records of
25 arrest associated in the criminal repository if the person was convicted of the
26 commission or attempted commission of any of the following offenses:

27 * * *

28 C. ~~The motion to expunge a record of arrest and conviction of a felony~~
29 ~~offense shall be served pursuant to the provisions of Article 979. The criminal~~

1 repository shall serve notice of this expungement pursuant to the provisions of
2 Article 982.1.

3 * * *

4 E.(1) Notwithstanding any other provision of law to the contrary, ~~after a~~
5 ~~contradictory hearing, the court may order the expungement of the arrest and~~
6 ~~conviction records of a person~~ a government-initiated expungement shall be
7 processed for a felony conviction and any records associated with the arrest in the
8 criminal repository pertaining to a conviction convictions of aggravated battery,
9 second degree battery, aggravated criminal damage to property, simple robbery,
10 purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the
11 following conditions ~~are proven by the petitioner~~ apply:

12 (a) ~~More than ten~~ Ten years have elapsed since the ~~person completed any~~
13 ~~sentence, deferred adjudication, or period of probation or parole~~ completion of the
14 sentence duration based on the felony conviction.

15 (b) The person has not been convicted of any other fingerprinted criminal
16 offense during the ten-year period.

17 (c) The person has no fingerprinted criminal charge pending against him.

18 * * *

19 Art. 981.1. Certificate of compliance confirming government-initiated expungement
20 of a fingerprinted record

21 A. The certificate of compliance shall include, at a minimum, the following
22 individual identifying information available from the criminal repository and shall
23 use the form provided under Article 992.1 and include the following, if available:

24 (1) Full legal name.

25 (2) Date of birth.

26 (3) Last four digits of the individual's social security number.

27 (4) Race of the individual.

28 (5) SID number for the individual.

29 (6) Arrest number or ATN for the individual.

- 1 (7) Agency item number.
- 2 (8) Arrest dates.
- 3 (9) Docket numbers and associated screening numbers.
- 4 (10) Arrest disposition.
- 5 (11) Charge.
- 6 (12) Final disposition.
- 7 (13) Disposition date.
- 8 (14) Sentencing and fines.
- 9 (15) Whether or not sentenced to hard labor.

10 B. For purposes of government-initiated expungement, the Louisiana Bureau
 11 of Criminal Identification and Information shall transmit the available information
 12 described in Paragraph A of this Article to the entities provided for in Article 982.1.

13 (1) Until August 1, 2025, the transmission of the available information shall
 14 be at least once every ninety days.

15 (2) Beginning August 1, 2025, the transmission of available information
 16 shall be at least once a month.

17 C. Upon request from an individual seeking confirmation of their
 18 government-initiated expungement, the Louisiana Bureau of Criminal Identification
 19 and Information shall generate and issue a certificate of compliance to the individual
 20 listed on the certificate for the purposes of confirming a record has been expunged
 21 through the government-initiated process. The individual seeking confirmation of
 22 government-initiated expungement shall request the certificate through a right to
 23 review or other process established by the Louisiana Bureau of Criminal
 24 Identification and Information. The certificate shall not affect any persons or other
 25 entities set forth in Article 982.1 who have not been served with the certificate of
 26 compliance.

27 Section 3. Code of Criminal Procedure Articles 976.1, 977.1, 981.2, and 982.1 are
 28 hereby enacted to read as follows:

1 (9) Docket numbers and associated screening numbers.

2 (10) Arrest disposition.

3 (11) Charge.

4 (12) Final disposition.

5 (13) Disposition date.

6 (14) Sentencing and fines.

7 (15) Whether or not sentenced to hard labor.

8 B. For purposes of government-initiated expungement, the Louisiana
9 Supreme Court Case Management Information System shall transmit the available
10 information described in Paragraph A of this Article to the entities provided for in
11 Article 982.1.

12 (1) Until August 1, 2025, the transmission of the available information shall
13 be at least once every ninety days.

14 (2) Beginning August 1, 2025, the transmission of available information
15 shall be at least once a month.

16 C. The available data described in Paragraph A of this Article related to a
17 non-fingerprinted record of arrest or conviction of a misdemeanor offense shall be
18 transmitted as provided for in Article 982.1. The transmission of data shall not affect
19 any persons or other entities not set forth in Article 982.1.

20 * * *

21 Art. 982.1. Transmission of data to complete and serve a government-initiated
22 fingerprinted and non-fingerprinted expungement

23 A. The Louisiana Bureau of Criminal Identification and Information through
24 the criminal repository shall transmit the available data provided in Article 981.1 by
25 United States mail or electronically to all of the following entities:

26 (1) The district attorney of the parish of conviction.

27 (2) The clerk of court of the parish of conviction.

28 (3) The arresting agency, if such agency is included in the arrest entry.

29 (4) The sheriff of the parish of conviction.

1 B. The Case Management Information System shall transmit the available
2 data provided in Article 981.2 by United States mail or electronically upon all of the
3 following entities:

- 4 (1) The district attorney of the parish of conviction.
- 5 (2) The Louisiana Bureau of Criminal Identification and Information.
- 6 (3) The clerk of court of the parish of conviction.
- 7 (4) The arresting agency.
- 8 (5) The sheriff of the parish of conviction.

9 Section 4. Code of Criminal Procedure Articles 978(E)(2), 984, and 996 are hereby
10 repealed in their entirety.

11 Section 5. The Louisiana State Law Institute is hereby authorized and directed to
12 renumber the terms defined in Code of Criminal Procedure Article 972 to ensure that such
13 terms are in alphabetical order.

14 Section 6. This Section and Sections 1 and 5 of this Act shall become effective on
15 August 1, 2021.

16 Section 7. This Section and Section 2 of this Act shall become effective on August
17 1, 2023.

18 Section 8. This Section and Section 3 of this Act shall become effective on August
19 1, 2024.

20 Section 9. This Section and Section 4 of this Act shall become effective on August
21 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 Reengrossed 2021 Regular Session James

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

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

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

- (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.
- (11) Provides immunity for clerks of court if records are not expunged pursuant to proposed law when necessary data did not exist in the records of the clerk in order to execute the expungement.
- (12) Provides immunity for clerks of court if records are not expunged pursuant to present and proposed law if the expungement order or transmittal of data pursuant to proposed law does not specifically identify all locations of records to be expunged or if necessary data did not exist in the clerk's records.

Proposed law provides for certain effective dates of proposed law.

(Amends C.Cr.P. Arts. 971(7), 973(D) and (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 House Committee on Administration of 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 proposed law regarding the transmission of data confirming government-initiated expungements.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Add provision granting immunity to clerks of court for records not expunged pursuant to proposed law when necessary data did not exist in the records of the clerk of court. Further provide remedies for a person seeking expungement in such circumstances.