

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

15 Be it enacted by the Legislature of Louisiana:

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

21 Art. 971. Legislative findings

22 The legislature hereby finds and declares the following:

23 * * *

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

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

1 Art. 972. Definitions

2 As used in this Title:

3 * * *

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

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

9 (7) "Certificate of Compliance" means a document produced by the
10 Louisiana Bureau of Criminal Identification and Information upon request by the
11 person whose record has been expunged after a government-initiated expungement
12 has been fully processed, as provided in Article 981.1.

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

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

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

24 (11) "Non-fingerprinted record of arrest" means a record or portion of a
25 record of citation, summons, or arrest, not including records of only traffic offenses
26 as provided for in Title 32 of the Louisiana Revised Statutes of 1950 and offenses
27 in municipal, mayor's, city, or traffic courts of the state of Louisiana that does not
28 create or result in a fingerprinted or biometric record transferred to the criminal

1 repository operated by the Louisiana Bureau of Criminal Identification and
2 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 or
13 misdemeanor 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 Code shall be construed to create any cause of action,
20 including but not limited to damages, writ of mandamus, or declaratory relief,
21 against the office of state police, Louisiana Supreme Court, or a clerk of court for
22 records not expunged pursuant to the provisions of Articles 976, 976.1, 977, 977.1,
23 or 978 when necessary data did not exist in the records of the criminal repository,
24 CMIS, or clerk of court for government-initiated expungement. In such
25 circumstances, the only remedies available to a person seeking expungement are to
26 request that a clerk of court provide the necessary information, if available, to the
27 Louisiana State Police or the Case Management Information System to complete the
28 record or file a petition-based expungement of the record.

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

3 (2) More than ten years have elapsed since the person completed any
4 sentence, deferred adjudication, or period of probation or parole based on the felony
5 conviction, and the person has not been convicted of any other criminal offense
6 during the ten-year period, and has no criminal charge pending against him. The
7 motion filed pursuant to this Subparagraph shall include a certification obtained from
8 the district attorney which verifies that, to his knowledge, the applicant has no
9 convictions during the ten-year period and no pending charges under a bill of
10 information or indictment.

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

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

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

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

25 (2)(a) Notwithstanding any provision of Article 893, a sex offense or a
26 criminal offense against a victim who is a minor as each term is defined by R.S.
27 15:541, or any offense which occurred prior to June 18, 1992, that would be defined
28 as a sex offense or a criminal offense against a victim who is a minor had it occurred
29 on or after June 18, 1992.

1 (b) Any person who was convicted of carnal knowledge of a juvenile (R.S.
2 14:80) prior to August 15, 2001, is eligible for an expungement pursuant to the
3 provisions of this Title if the offense for which the offender was convicted would be
4 defined as misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the
5 offender been convicted on or after August 15, 2001. The burden is on the mover
6 to establish that the elements of the offense of conviction are equivalent to the
7 current definition of misdemeanor carnal knowledge of a juvenile as defined by R.S.
8 14:80.1. A copy of the order waiving the sex offender registration and notification
9 requirements issued pursuant to the provisions of R.S. 15:542(F) shall be sufficient
10 to meet this burden.

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

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

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

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

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

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

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

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

1 Art. 982. Service of order and judgment of petition-based expungement

2 * * *

3 Art. 983. Costs of a petition-based expungement of a record; fees; collection;
4 exemptions; disbursements

5 * * *

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

11 * * *

12 Art. 985. Expungement by redaction of records with references to multiple
13 individuals

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

20 B. If the court grants the expungement by redaction with proper notice to all
21 parties with the record, the name of the individual and all other identifying
22 information regarding the individual granted the expungement by redaction shall be
23 redacted from all records regarding the arrest and conviction. The redacted records
24 shall be available for public access.

25 C. The clerk of court shall not be liable for any damages resulting to any
26 person or entity as a consequence of expunging or redacting or for the failure to
27 expunge or redact any record where the expungement order or transmittal of data
28 described in Article 981.1 or 981.2 does not specifically identify all locations of the

1 records to be expunged or specify the information to be redacted or when necessary
2 data did not exist in the records of the clerk of court.

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

5 * * *

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

9 * * *

10 Art. 986. Forms for the expungement of records

11 A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,
12 994, and 995 of this Code shall be used for filing motions ~~to expunge a record of an~~
13 ~~arrest which did not result in a conviction, for the expungement of a record of arrest~~
14 ~~and conviction of a misdemeanor or felony offense, or for an interim motion to~~
15 ~~expunge a felony offense which resulted in a misdemeanor conviction~~ for petition-
16 based expungement of a record of arrest or conviction as provided by this Title.

17 * * *

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

20 " **STATE OF LOUISIANA**
21 **JUDICIAL DISTRICT FOR THE PARISH OF**
22 _____
23 **No.:** _____ **Division:** " _____ "
24 **State of Louisiana**
25 **vs.**
26 _____

27 **MOTION TO SET ASIDE CONVICTION AND**
28 **DISMISS PROSECUTION**

1 NOW INTO HONORABLE COURT, comes

2 Defendant, OR

3 Defendant through undersigned Counsel,

4 who moves that the conviction pursuant to Louisiana Code of Criminal Procedure

5 Article 894(B) Misdemeanors, OR

6 Article 893(E) Felonies

7 in the above numbered case be set aside and that the prosecution dismissed in
8 accordance with the Code of Criminal Procedure in that the period of the deferred
9 sentence has run and petitioner has successfully completed the terms of his
10 probation.

11 The mover is further identified below:

12 DOCKET NUMBER: _____

13 CHARGE: _____

14 DATE OF ARREST: _____

15 ARRESTING AGENCY: _____

16 CITY/PARISH OF ARREST: _____

17 The Mover prays that, after a contradictory hearing with the District Attorney's
18 Office, the Court order the above numbered case be set aside and that the prosecution
19 dismissed in accordance with the Code of Criminal Procedure.

20 Respectfully submitted,

21 _____
22 Signature of Attorney for Mover/Defendant

23 _____
24 Attorney for Mover/Defendant Name

25 _____
26 Attorney's Bar Roll No.

27 _____
28 Address

29 _____
30 City, State, ZIP Code

1
2
3
4
5
6
7
8
9
10
11
12
13

Telephone Number
If not represented by counsel:

Signature of Mover/Defendant

Mover/Defendant Name

Address

City, State, ZIP Code

Telephone Number

STATE OF LOUISIANA

JUDICIAL DISTRICT FOR THE PARISH OF

No.: _____

Division: " _____ "

State of Louisiana

vs.

RULE TO SHOW CAUSE

IT IS HEREBY ORDERED, that the District Attorney show cause on the _____
day of _____, 20 _____, at _____ o'clock __m why the foregoing
motion should not be granted.

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

JUDGE

PLEASE SERVE:

1. District Attorney: _____
2. Attorney for Defendant and/or Defendant _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

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: " _____ "**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

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): _____

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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 Article 981.1 is hereby enacted to read as follows:

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

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

24 (1) ~~The person was not prosecuted for the offense for which he was arrested,~~
25 ~~and the limitations on the institution of prosecution have barred the prosecution for~~
26 ~~that offense.~~ The district attorney for any reason declined to prosecute any offense
27 out of that arrest, including the reason that the person successfully completed a
28 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
14 ~~probation or parole,~~ and the person has not been convicted of any fingerprint-based
15 felony offense during the five-year period, and has no fingerprint-based felony
16 charge pending against him. ~~The motion filed pursuant to this Subparagraph shall~~
17 ~~include a certification obtained from the district attorney which verifies that to his~~
18 ~~knowledge the applicant has no felony convictions during the five-year period and~~
19 ~~no pending felony charges under a bill 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:

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (1) The misdemeanor conviction ~~arose from circumstances involving or is~~
2 the result of an arrest for a sex offense as defined in R.S. 15:541, except that an
3 interim expungement shall be available as authorized by the provisions of Article
4 985.1 of this Code.

5 * * *

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

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

13 * * *

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

22 * * *

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

28 * * *

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

2 (7) Agency item number.

3 (8) Arrest dates.

4 (9) Docket numbers and associated screening numbers.

5 (10) Arrest disposition.

6 (11) Charge.

7 (12) Final disposition.

8 (13) Disposition date.

9 (14) Sentencing and fines.

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

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

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

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

18 C. Upon request from an individual seeking confirmation of their
19 government-initiated expungement, the Louisiana Bureau of Criminal Identification
20 and Information shall generate and issue a certificate of compliance to the individual
21 listed on the certificate for the purposes of confirming a record has been expunged
22 through the government-initiated process. The individual seeking confirmation of
23 government-initiated expungement shall request the certificate through a right to
24 review or other process established by the Louisiana Bureau of Criminal
25 Identification and Information.

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

1 Art. 976.1. Government-initiated expungement of a non-fingerprinted record of
2 arrest that did not result in conviction

3 A. A non-fingerprinted record of arrest for a misdemeanor offense that did
4 not result in a conviction shall be expunged through government automation at the
5 earliest of the following:

6 (1) The district attorney for any reason declined to prosecute any offense out
7 of that arrest, including the reason that the person successfully completed a pretrial
8 diversion program.

9 (2) Prosecution was instituted and such proceedings have been finally
10 disposed of by dismissal with prejudice, sustaining of a motion to quash with
11 prejudice, or acquittal.

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

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

25 C. The government-initiated expungement of a non-fingerprinted record of
26 arrest that did not result in a conviction of a misdemeanor offense shall be served
27 pursuant to the provisions of Article 982.1 of this Code.

28 * * *

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 Article 978(E)(2) is hereby repealed in its
10 entirety.

11 Section 5. Code of Criminal Procedure Article 984 and 996 are hereby repealed in
12 their entirety.

13 Section 6. Code of Criminal Procedure Article 978(B)(2)(b) is hereby repealed in its
14 entirety.

15 Section 7. The Louisiana State Law Institute is hereby authorized and directed to
16 renumber the terms defined in Code of Criminal Procedure Article 972 to ensure that such
17 terms are in alphabetical order.

18 Section 8. This Section and Sections 1, 6, and 7 of this Act shall become effective
19 on August 1, 2021.

20 Section 9. This Section and Sections 2, 4, and 5 of this Act shall become effective
21 on August 1, 2023.

22 Section 10. This Section and Section 3 of this Act shall become effective on August
23 1, 2024.

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 Re-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 a 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 and transmission 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 office of state police, La. Supreme Court, and clerks of court if records are not expunged pursuant to proposed law when necessary data did not exist in the criminal repository, CMIS, or 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, 977.1, 977.2, 978.1, 981.1, 981.2, 982.1, and 983(J); Repeals C.Cr.P. Arts. 978(B)(2)(b) and (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.

The House Floor Amendments to the reengrossed bill:

1. Make technical changes.
2. Specify the available causes of action.
3. Specify that nothing in proposed law shall be construed to create a cause of action against the office of state police or the La. Supreme Court.
4. Specify that requesting a clerk of court to provide necessary information is the only remedy available to a person seeking expungement.
5. Reinstate present law relative to an applicant's ability to proceed in forma pauperis.
6. Provide for special effective dates.