

SENATE COMMITTEE AMENDMENTS

2017 Regular Session

Amendments proposed by Senate Committee on Judiciary B to Re-Reengrossed House Bill No. 506 by Representative Jefferson

1 AMENDMENT NO. 1

2 On page 1, line 2, after "Articles" insert "412(A), (D)(9), (10), (11), and (12), (E), (G)(4),
3 (H), (I), (J), and (K),"

4 AMENDMENT NO. 2

5 On page 1, line 3, after "R.S." delete the remainder of the line and insert "15:576(2), 579,
6 593,"

7 AMENDMENT NO. 3

8 On page 1, line 4, after "Articles" insert "412(L) and (M),"

9 AMENDMENT NO. 4

10 On page 1, line 6, after "901(G)," insert "903(B)(7) and (G), 922(B),"

11 AMENDMENT NO. 5

12 On page 1, line 7, after "Code" delete the remainder of the line and insert "Article 738(D),
13 and to provide"

14 AMENDMENT NO. 6

15 On page 1, line 16, after "exceptions;" delete "to provide for effectiveness;"

16 AMENDMENT NO. 7

17 On page 1, line 19, after "Articles" insert "412(A),(D)(9), (10), (11), and (12), (E), (G)(4),
18 (H), (I), (J), and (K),"

19 AMENDMENT NO. 8

20 On page 2, line 1, after "Articles" insert "412(L) and (M),"

21 AMENDMENT NO. 9

22 On page 2, line 3, after "901(G)," insert "903(B)(7) and (G), 922(B),"

23 AMENDMENT NO. 10

24 On page 2, between lines 3 and 4, insert the following:

25 "Art. 412. Confidentiality of records; disclosure exceptions; sanctions
26 A. Records and reports concerning all matters or proceedings before the
27 juvenile court, except traffic violations, are confidential and shall not be disclosed
28 except as expressly authorized by this Code. Any person authorized to review or
29 receive confidential information shall preserve its confidentiality ~~in the absence of~~
30 ~~express authorization for sharing with others~~ unless a court order authorizes them to
31 share with others.

32 * * *

33 D. When such information is relevant and necessary to the performance of
34 their respective duties and enhances services to the child or his family, the court may

1 authorize the release of records, reports, or certain information contained therein,
2 limited to the specific purpose for which the court authorizes release, to appropriate
3 individuals representing who represent any of the following when they are providing
4 services to the child whose records are disclosed during the pendency of the matter
5 about which the records are disclosed:

6 * * *

- 7 ~~(9) A truancy and assessment center.~~
- 8 ~~(10) Other child serving agencies or programs.~~
- 9 ~~(11) The attorney general's office.~~
- 10 ~~(12) (10) A district public defender or the district public defender's representative,~~
11 ~~or the representative of a public defender program established pursuant to the~~
12 ~~Louisiana Public Defender Act of 2007.~~

13 E.(1) For good cause when the information is material and necessary to a
14 specific investigation or proceeding, the court may order the release of individual
15 records and reports, or certain information contained therein, to a petitioner, limited
16 to the specific purpose for which the court authorizes release.

17 (2) The petition must:

18 (a) Be filed with the juvenile court and served on the juvenile and his
19 attorney.

20 (b) State the reason for the request and the intended use of the information,
21 including any intended redisclosure.

22 (c) State the names of all persons that will have access to the information.

23 (3) In ruling on the petition, the juvenile court shall consider the privacy of
24 the juvenile, risk of harm to the juvenile, whether a compelling reason exists for
25 releasing the information, and whether the release is necessary for the protection of
26 a legitimate interest. The court shall ensure the juvenile is afforded notice of the
27 hearing and an opportunity to be heard at a contradictory hearing on the petition.

28 * * *

29 G. In accordance with Articles 811.1 and 811.3, the district attorney or court
30 may release to the victim of a delinquent act constituting a crime of violence as
31 defined in R.S. 14:2(B), or to the victim's legal representative or designated family
32 member:

33 * * *

34 (4) Certain information contained in the predisposition report to the court
35 pursuant to Article 890, limited to those items described in Subparagraphs (A)(1) and
36 (2) and Paragraph (D) of that Article.

37 H. ~~The district attorney, law enforcement agency, or court may release to the~~
38 ~~public the following identifying information concerning an alleged or adjudicated~~
39 ~~delinquent child, provided the child was at least fourteen years old at the commission~~
40 ~~of the delinquent act:~~

41 (1) ~~The name, age, and delinquent act for which the child is being charged~~
42 ~~whenever, in accordance with Article 813 or 820, the court has found probable cause~~
43 ~~that the child committed a crime of violence as defined by R.S. 14:2(B) or a second~~
44 ~~or subsequent felony-grade offense.~~

45 (2) ~~The name, age, delinquent act, and disposition of a child who has been~~
46 ~~adjudicated delinquent for a crime of violence as defined by R.S. 14:2(B), for a~~
47 ~~second or subsequent felony-grade offense, or for the distribution or possession with~~
48 ~~the intent to distribute a controlled dangerous substance as defined in R.S. 40:961 et~~
49 ~~seq. In order to assist in finding and taking into custody a child wanted for a felony-~~
50 ~~grade delinquent act involving an offense against the person or involving a~~
51 ~~dangerous weapon, law enforcement agencies may release to the public identifying~~
52 ~~information regarding the child if a court has issued an order for taking the child into~~
53 ~~custody pursuant to Article 813, or if probable cause that the child committed the~~
54 ~~alleged delinquent act has already been established pursuant to Article 820.~~
55 ~~Identifying information may include the child's name, age, alleged delinquent act,~~
56 ~~physical description, and photograph.~~

57 I. ~~In order to assist in finding and taking into custody a child wanted for a~~
58 ~~felony-grade delinquent act involving an offense against the person or involving a~~
59 ~~dangerous weapon, law enforcement agencies may release to the public identifying~~
60 ~~information regarding the child if a court has issued an order for taking the child into~~

1 custody pursuant to Article 813, or if probable cause that the child committed the
2 alleged delinquent act has already been established pursuant to Article 820.
3 Identifying information may include the child's name, age, alleged delinquent act,
4 physical description, photograph, address, and, when appropriate, social security
5 number and driver's license number. Any violation of the confidentiality provisions
6 of this Article shall be punishable as a constructive contempt of court pursuant to
7 Article 1509(E).

8 J. ~~Any violation of the confidentiality provisions of this Article shall be~~
9 ~~punishable as a constructive contempt of court pursuant to Article 1509(E).~~
10 Whenever a child escapes from a juvenile detention center, law enforcement
11 agencies are hereby authorized to release to the public the child's name, age, physical
12 description, and photograph.

13 K. ~~Whenever a child escapes from a juvenile detention center, law~~
14 ~~enforcement agencies are hereby authorized to release to the public the child's name,~~
15 ~~age, physical description, and photograph. Every person, other than the juvenile,~~
16 ~~parents of the juvenile, and attorney for the juvenile, to whom a juvenile record or~~
17 ~~information from a juvenile is disclosed pursuant to this Article shall execute a non-~~
18 ~~disclosure agreement that certifies the person is familiar with the applicable~~
19 ~~disclosure provisions and agrees not to disclose any information to unauthorized~~
20 ~~persons.~~

21 L. Juvenile records or information from juvenile records disclosed pursuant
22 to this Article shall be marked "UNLAWFUL DISSEMINATION OF THIS
23 INFORMATION IS PUNISHABLE AS A CONSTRUCTIVE CONTEMPT OF
24 COURT PURSUANT TO LOUISIANA CHILDREN'S CODE ARTICLE 1509(E)".

25 M. Records of juvenile criminal conduct shall not be made a part of any state
26 or local criminal background check."

27 AMENDMENT NO. 11

28 On page 6, after line 32, insert the following:

29 "Art. 903. Judgment of disposition

30 * * *

31 B. The court shall enter into the record a written judgment of disposition
32 specifying all of the following:

33 * * *

34 (7) An order of expungement to be made executory at the end of the
35 disposition unless, at the end of the disposition, a person or agency files an objection
36 using the form provided in Art. 925 on any of the following grounds:

37 (a) The adjudication was for murder, manslaughter, an offense requiring
38 registration as a sex offender under R.S. 15:542, kidnapping, or armed robbery.

39 (b) The child has a criminal court felony conviction or a criminal court
40 conviction for a misdemeanor involving a firearm against a person.

41 (c) The child has an outstanding indictment or bill of information for a
42 felony charge or a charge of a misdemeanor involving a firearm against a person.

43 * * *

44 G.(1) The court shall provide to the child, in plain language, the following
45 information:

46 (a) Information regarding the rights and procedures of expungement and
47 sealing of juvenile records.

48 (b) Information regarding expungement, including instructions to the child
49 that when his records are expunged he is not required to disclose that he has a
50 juvenile record.

51 (c) The expungement motion provided in Article 924.

52 (2) Failure of the court to inform the child of the right to petition for
53 expungement shall not create a substantive right and shall not constitute grounds for
54 a reversal of an adjudication of delinquency, grounds for a new trial, or grounds for
55 an appeal.

56 * * *"

1 AMENDMENT NO. 12

2 On page 7 delete lines 7 through 28 and on page 8, delete lines 1 through 16 and insert the
 3 following:

4 "A. ~~Records concerning conduct or conditions~~ and reports of a delinquency
 5 matter that did not result in adjudication and records concerning delinquency
 6 adjudications for R.S. 14:82, 83.3, 83.4, 89, or 89.2 may be expunged and sealed at
 7 any time.

8 B. ~~Records concerning conduct or conditions that resulted in a misdemeanor~~
 9 ~~adjudication may be expunged only if two or more years have elapsed since the~~
 10 ~~person satisfied the most recent judgment against him. Records and reports of a~~
 11 ~~matter that resulted in a finding of Families in Need of Services or an adjudication~~
 12 ~~for any charge other than murder, manslaughter, an offense requiring registration as~~
 13 ~~a sex offender under R.S. 15:542, kidnapping, or armed robbery shall be expunged~~
 14 ~~and sealed only if the court exercising juvenile jurisdiction has ceased to exercise~~
 15 ~~jurisdiction in accordance with Article 313.~~

16 C. Records concerning conduct or conditions that resulted in a ~~felony~~
 17 ~~delinquency~~ adjudication may be expunged and sealed only if all of the following
 18 circumstances exist:

19 (1) ~~The adjudication was not for murder, manslaughter, any sexual crime,~~
 20 ~~kidnapping, or armed robbery.~~

21 (2) ~~Five or more years have elapsed since the person satisfied the most recent~~
 22 ~~judgment against him.~~

23 (3) ~~(1) The person seeking expungement and sealing has no criminal court~~
 24 ~~felony convictions and no criminal court convictions for misdemeanors~~ against a
 25 person involving a weapon firearm.

26 (4) ~~(2) The person seeking expungement and sealing has no outstanding~~
 27 ~~pending indictment or bill of information charging him.~~

28 D. ~~Records concerning conduct or conditions that resulted in a misdemeanor~~
 29 ~~or felony adjudication for R.S. 14:82, 83.3, 83.4, 89, or 89.2 may be expunged upon~~
 30 ~~petition to the court and upon a showing that, during the time of the commission of~~
 31 ~~the offense, the person seeking the expungement was a victim of trafficking of~~
 32 ~~children for sexual purposes pursuant to R.S. 14:46.3(E) provided that the person has~~
 33 ~~no outstanding indictment or bill of information charging him. If the adjudication~~
 34 ~~was for murder, manslaughter, a sex offense requiring registration under R.S. 15:542,~~
 35 ~~kidnapping, or armed robbery, the child may petition the court for an expungement~~
 36 ~~of his juvenile record when the court has ceased to exercise jurisdiction in~~
 37 ~~accordance with Article 313 and all of the following conditions are met:~~

38 (1) ~~Five or more years have elapsed since the person seeking expungement~~
 39 ~~and sealing satisfied the most recent judgment against him.~~

40 (2) ~~The person seeking expungement and sealing has no criminal court felony~~
 41 ~~convictions and no criminal court convictions for misdemeanors against a person~~
 42 ~~involving a firearm.~~

43 (3) ~~The person seeking expungement and sealing has no pending indictment~~
 44 ~~or bill of information."~~

45 AMENDMENT NO. 13

46 On page 10, line 18, after "B." delete the remainder of the line and delete line 19 and insert
 47 the following:

48 "The order ~~must shall~~ specify the time within which the destruction state that
 49 the expungement and sealing is to be effected no later than thirty days from the date
 50 of the order. The order ~~must shall~~ also specify the"

51 AMENDMENT NO. 14

52 On page 11, at the beginning of line 4, insert "A."

1 AMENDMENT NO. 15

2 On page 11, between lines 11 and 12, insert the following:

3 "B. A child that is the subject of an expunged record or the child's parent
4 shall not be found guilty of perjury or otherwise giving false statements by reason
5 of the child's failure to recite or acknowledge his expunged record in response to any
6 inquiry made of the child or the child's parent for any purpose. However, if the child
7 is a witness in a criminal or juvenile delinquency matter, the child may be ordered
8 to testify regarding his expunged record."

9 AMENDMENT NO. 16

10 On page 13, line 24, after "Services" insert "or delinquency"

11 AMENDMENT NO. 17

12 On page 13, delete line 27

13 AMENDMENT NO. 18

14 On page 14, delete lines 1 through 9

15 AMENDMENT NO. 19

16 On page 17, line 26, delete "Insufficient time has passed since the conclusion of the matter,
17 or the" and insert "The"

18 AMENDMENT NO. 20

19 On page 17, line 30, delete "is not eligible for expungement and sealing" and insert "a
20 hearing is required by law"

21 AMENDMENT NO. 21

22 Delete page 19 in its entirety

23 AMENDMENT NO. 22

24 On page 20, delete lines 1 through 15

25 AMENDMENT NO. 23

26 On page 20, line 16, change "Section 3." to "Section 2."

27 AMENDMENT NO. 24

28 On page 21, line 30, delete "Section 4. R.S. 15:", and insert "Section 3. R.S. 15:576(2), 579,"

29 AMENDMENT NO. 25

30 On page 21, between lines 31 and 32, insert the following:

31 "§576. Definitions
32 As used in this Chapter:
33 * * *
34 (2) The terms "criminal history record" or "criminal history record
35 information" mean information collected by criminal justice agencies on individuals
36 consisting of identifiable descriptions and notations of arrests, detentions,
37 indictments, bills of information, or any formal criminal charges, and any disposition
38 arising therefrom, including sentencing, correctional supervision, and release. The

1 terms do not include intelligence or investigatory purposes, nor does it include any
2 identification information which does not indicate involvement of the individual in
3 the criminal justice system. The terms do not include records of juvenile criminal
4 conduct.

5 * * *

6 §579. Rules and regulations

7 The bureau shall issue rules and regulations, consistent with United States
8 Department of Justice requirements, the constitution of Louisiana, the Louisiana
9 Code of Criminal Procedure, the Louisiana Children's Code, and the Louisiana
10 Revised Statutes of 1950, governing the maintenance of privacy and security of
11 criminal history records and records of juvenile criminal conduct; governing access
12 to and use of records maintained by the central repository; governing restrictions to
13 access and use by authorized agencies or individuals of any state owned or operated
14 system of communications utilized for transmitting criminal history record
15 information to or from the bureau; and governing the purging of any information
16 maintained by the bureau as permitted by law. Records of juvenile criminal conduct
17 shall not be made a part of any state or local criminal background check.

18 * * *"

19 AMENDMENT NO. 26

20 On page 22, line 14, change "Section 5." to "Section 4."

21 AMENDMENT NO. 27

22 On page 23, delete line 1

23 AMENDMENT NO. 28

24 On page 23, line 2, change "Section 7." to "Section 5."

25 AMENDMENT NO. 29

26 On page 23, delete lines 3 through 6