

GREEN SHEET REDIGEST

HB 604

2021 Regular Session

James

CRIMINAL/RECORDS: Provides relative to expungement of records

DIGEST

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, including the following significant changes:

- (1) Provides definitions of the following terms: "arrest date"; "Case Management Information System"; "certificate of compliance"; "criminal repository"; "fingerprint-based record of arrest"; "government-initiated expungement"; "non-fingerprint-based 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 with a petition-based expungement of a record, and provides that a person cannot be charged any costs for a government-initiated expungement of records.
- (6) Amends certain present law forms to conform with proposed law.
- (7) Provides relative to the process for a government-initiated expungement of a fingerprint-based record of arrest that did not result in a conviction.
- (8) Provides relative to the process for a government-initiated expungement of a fingerprint-based record of arrest and conviction of misdemeanor and felony offenses.
- (9) Provides for a certificate of compliance confirming a government-initiated expungement of a fingerprint-based record.
- (10) Provides relative to the transmission of data to complete and serve a government-initiated fingerprint-based and non-fingerprint-based expungement.
- (11) Provides immunity for the 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 law and proposed law if the expungement order 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 relative to implementation dates of proposed law.

Proposed law provides for effective dates for certain provisions of proposed law.

(Amends C.Cr.P. Arts. 971(7), 973(A)(1), (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) and (K); repeals C.Cr.P. Arts. 978(B)(2)(b) and (E)(2), 983(A) through (I), 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.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the re-engrossed bill

1. Change proposed law references from "fingerprinted" to "fingerprint-based" records.
2. Change proposed law references from "non-fingerprinted" to "non-fingerprint-based" records.
3. Add provision that there is no cause of action against state police when an eligible government-initiated expungement does not process.

4. Delete provisions of proposed law relative to filing a motion for expungement when the criminal repository or CMIS did not complete a government-initiated expungement under certain circumstances.
5. Delete provisions of proposed law relative to transmission of certain expungement data by the La. Bureau of Criminal Identification and Information.
6. Add provision relative to the promulgation of rules necessary for the implementation of proposed law.
7. Delete requirement that state police transmit data to certain entities that a government-initiated expungement has completed.
8. Delete requirement that La. Supreme Court transmit data regarding the completion of a government-initiated expungement to state police.
9. Add provisions relative to implementation dates of proposed law.
10. Make technical changes.