

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 15:579, 593, and 614(B) are hereby amended and reenacted and R.S.
3 15:614(C) is hereby enacted to read as follows:

4 §579. Rules and regulations

5 The bureau shall issue rules and regulations, consistent with United States
6 Department of Justice requirements, the Constitution of the State of Louisiana, the
7 Code of Criminal Procedure, the Children's Code, and the Louisiana Revised Statutes
8 of 1950, governing the maintenance of privacy and security of criminal and juvenile
9 history records; governing access to and use of records maintained by the central
10 repository; governing restrictions to access and use by authorized agencies or
11 individuals of any state owned or operated system of communications utilized for
12 transmitting criminal history record information to or from the bureau; and
13 governing the purging of any information maintained by the bureau as permitted by
14 law.

15 * * *

16 §593. Prohibition against destruction of records

17 Notwithstanding the provisions of Articles 893 and 894 of the Code of
18 Criminal Procedure and R.S. 40:983 and except in accordance with the provisions
19 set forth in ~~R.S. 44:9~~ Children's Code Articles 917 through 923, no judge or other
20 official shall order the expungement, alteration, or destruction of any record of the
21 bureau or of any agency subject to reporting requirements of the bureau.

22 * * *

23 §614. Removal of records

24 * * *

25 B. The state police shall remove all records and identifiable information in
26 the data base or data bank pertaining to the person and destroy all samples from the
27 person upon receipt of a written request for the removal of the record and a certified
28 court order of expungement properly obtained, including those obtained pursuant to
29 the provisions of ~~R.S. 44:9~~ Children's Code Articles 917 through 923.

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

5 * * *

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

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

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

17 (2) ~~The name, age, delinquent act, and disposition of a child who has been~~
18 ~~adjudicated delinquent for a crime of violence as defined by R.S. 14:2(B), for a~~
19 ~~second or subsequent felony-grade offense, or for the distribution or possession with~~
20 ~~the intent to distribute a controlled dangerous substance as defined in R.S. 40:961 et~~
21 ~~seq.~~

22 F. In order to assist in finding and taking into custody a child wanted for a
23 felony-grade delinquent act involving an offense against the person or involving a
24 dangerous weapon, law enforcement agencies may release to the public identifying
25 information regarding the child if a court has issued an order for taking the child into
26 custody pursuant to Article 813, or if probable cause that the child committed the
27 alleged delinquent act has already been established pursuant to Article 820.
28 Identifying information may include the child's name, age, alleged delinquent act,

1 physical description, ~~and photograph, address, and, when appropriate, social security~~
2 ~~number and driver's license number.~~

3 J.I. Any violation of the confidentiality provisions of this Article shall be
4 punishable as a constructive contempt of court pursuant to Article 1509(E).

5 ~~K.J.~~ Whenever a child escapes from a juvenile detention center, law
6 enforcement agencies are hereby authorized to release to the public the child's name,
7 age, physical description, and photograph.

8 K. Each person, other than the juvenile who is the subject of a juvenile
9 record, his parents, and his attorney, to whom a juvenile record or information from
10 a juvenile record is to be disclosed pursuant to this Article, is required to execute a
11 nondisclosure agreement in which the person certifies that he is familiar with the
12 applicable disclosure provisions and promises not to disclose any information to an
13 unauthorized person.

14 L. Files disseminated pursuant to this Article shall be marked "UNLAWFUL
15 DISSEMINATION OF THIS INFORMATION IS PUNISHABLE AS A
16 CONSTRUCTIVE CONTEMPT OF COURT PURSUANT TO LOUISIANA
17 CHILDREN'S CODE ARTICLE 1509(E)".

18 M. No court or law enforcement records pertaining to the taking into custody
19 of a juvenile shall be considered responsive to a state or local criminal background
20 check.

21 * * *

22 Art. 414. Disclosure of records for sentencing; habitual offender proceedings

23 A. Notwithstanding any provision of law to the contrary, upon written
24 request, reports and records concerning juvenile court proceedings shall be released
25 to the sentencing judge when necessary for sentencing ~~and released to the district~~
26 ~~attorney for purposes of charging a person as a habitual offender pursuant to R.S.~~
27 ~~15:529.1.~~

28 * * *

1 Art. 901. Disposition guidelines; generally

2 * * *

3 G. It is the duty of the child's attorney to inform the child of the
4 consequences of being adjudicated delinquent, the definition of expungement, and
5 the timelines for expungement that are automatic and those which are available upon
6 application.

7 H.(1) It is the duty of the child's attorney to inform him of his expungement
8 rights. The court shall provide an expungement information packet to the person,
9 written in plain language, that contains the following:

10 (a) Information about the rights and procedures described in Article 920.

11 (b) Instructions to the child that once the case is expunged, it shall be treated
12 as if it never occurred and the child shall not be required to disclose that he had a
13 juvenile record.

14 (c) The expungement motion contained in Article 924.

15 (d) A list of resources for expungement assistance.

16 (2) Failure of the judge to inform the child of the right to petition for
17 expungement as provided by law does not create a substantive right and is not
18 grounds for a reversal of an adjudication of delinquency, a new trial, or an appeal.

19 * * *

20 Art. 917. Expungement; generally

21 ~~A person seventeen years of age or older may move for expungement of~~
22 ~~records of juvenile criminal conduct pursuant to this Chapter. This Chapter provides~~
23 ~~the exclusive procedure by which reports and records of proceedings under Titles VII~~
24 ~~and VIII of this Code may be expunged.~~

25 Art. 918. Grounds

26 A. Records concerning conduct or conditions that did not result in
27 adjudication ~~may~~ and those for R.S. 14:82, 83.3, 83.4, 89, or 89.2 shall automatically
28 be expunged immediately following the court's discharge of the case. This includes
29 Families in Need of Services cases or delinquency cases in which the time for the

1 state to appeal the dismissal has ended, diverted cases in which the person has
 2 successfully completed diversion, cases in which the person was ruled not
 3 delinquent, and cases in which the law enforcement agency did not refer the child to
 4 court. Expungements pursuant to the provisions of this Paragraph require no
 5 application or action by the person. If the chief law enforcement officer of the
 6 agency, or his designee, certifies in writing that certain information is needed for a
 7 pending investigation involving the commission of a felony, that information, and
 8 information identifying the person, may be retained in an intelligence file until the
 9 investigation is terminated or for one additional year, whichever period of time is
 10 shorter.

11 B. Records concerning conduct or conditions that resulted in a ~~misdemeanor~~
 12 ~~delinquency~~ adjudication may be expunged only if ~~two or more years have elapsed~~
 13 ~~since the person satisfied the most recent judgment against him.~~ the following
 14 conditions exist:

15 (1) The court exercising juvenile jurisdiction over the matter to which the
 16 records pertain has ceased to exercise jurisdiction in accordance with Article 313.

17 (2) The person has no criminal court felony convictions and no criminal
 18 court convictions for misdemeanors involving a weapon.

19 (3) The person has no outstanding indictment or bill of information charging
 20 him.

21 C.(1) ~~Records concerning conduct or conditions that resulted in a felony~~
 22 ~~adjudication may be expunged only if:~~ When the adjudication was for murder,
 23 manslaughter, a sex offense requiring registration pursuant to R.,S, 15:542(A)(3),
 24 kidnapping, or armed robbery and the person's case has been closed, he may petition
 25 the court for an expungement of his juvenile record if the following conditions are
 26 met:

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

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

3 ~~(3)(a) The person has no criminal court felony convictions and no criminal~~
4 ~~court convictions for misdemeanors involving a weapon.~~

5 ~~(4)(b) The person has no outstanding indictment or bill of information~~
6 ~~charging him.~~

7 (2) Prior to the granting of any expungement for an adjudication for murder,
8 manslaughter, a sex offense requiring registration pursuant to R.S. 15:542(A)(3),
9 kidnapping, or armed robbery, the prosecutor shall be notified and given an
10 opportunity to present evidence at a hearing in which the juvenile court will rule on
11 the expungement after considering the following:

12 (a) The best interests of the person.

13 (b) The age of the person during his or her contact with the juvenile court or
14 law enforcement agency.

15 (c) The nature of the offense.

16 (d) The disposition of the case.

17 (e) The manner in which the person participated in any court ordered
18 rehabilitative programming or supervised services.

19 (f) The time during which the person has been without contact with the
20 juvenile court or with any law enforcement agency.

21 (g) Whether the person has any subsequent criminal involvement.

22 (h) The adverse consequences the person will suffer as a result of retention
23 of his record.

24 ~~D. Records concerning conduct or conditions that resulted in a misdemeanor~~
25 ~~or felony adjudication for R.S. 14:82, 83.3, 83.4, 89, or 89.2 may be expunged upon~~
26 ~~petition to the court and upon a showing that, during the time of the commission of~~
27 ~~the offense, the person seeking the expungement was a victim of trafficking of~~
28 ~~children for sexual purposes pursuant to R.S. 14:46.3(E) provided that the person has~~
29 ~~no outstanding indictment or bill of information charging him.~~

1 Art. 919. Procedure for expungement

2 A. A person ~~seventeen years of age or older~~ may move for the expungement
3 of records and reports concerning the person's juvenile criminal conduct or
4 conditions.

5 B. The motion for expungement must be ~~in writing~~ made using the form
6 provided in Article 924 and must state facts that constitute grounds for expungement
7 under Article 918.

8 * * *

9 E. ~~Unless waived by consent of the parties,~~ Any person or agency which
10 objects to the granting of the motion for a matter that resulted in a delinquency
11 adjudication for a misdemeanor offense against the person or for a felony offense
12 shall file an affidavit of response in accordance with Article 925 and a contradictory
13 hearing ~~must~~ shall be conducted with the district attorney and any agency whose
14 reports and records are sought to be expunged and sealed.

15 F. If the court finds that the grounds have been established, and ~~that~~ the
16 person is entitled to expungement, the court ~~may~~ shall order the expungement.
17 When possible such an order shall preferably be included within the judgment
18 indicating that the court has ceased to exercise such jurisdiction over the matter to
19 be expunged.

20 Art. 920. Order of expungement; court records

21 A. An order for the expungement of juvenile court records ~~must~~ shall be in
22 ~~writing~~ the form provided in Article 924 and, except as hereinafter provided, ~~must~~
23 shall require that the clerk of court destroy all records relating to the conduct or
24 conditions referred to in the motion for expungement, including but not limited to
25 pleadings, exhibits, reports, minute entries, correspondence, and all other documents.

26 * * *

1 Art. 921. Order of expungement; agency records

2 A. An order for the expungement of juvenile records ~~must~~ shall be in ~~writing~~
3 the form provided in Article 924 and must require that both of the following occur:

4 * * *

5 D. A copy of the ~~judgment~~ order for expungement ordering destruction may
6 be maintained by the custodian of reports and records of the agency or office.
7 However, the custodian must not disclose the fact that such judgment is maintained
8 or that the destroyed reports or records previously existed to anyone except upon
9 written order of the court.

10 Art. 922. Expungement order; effect

11 A. Except for the limited purposes stated in Articles 920 and 921, upon an
12 order of expungement, the conduct and conditions expunged are considered
13 nonexistent and are to be treated as such upon inquiry.

14 B. With respect to the matter in which the record was expunged, the person
15 who is the subject of the record and the person's parent shall not be held under any
16 provision of any law to be guilty of perjury or otherwise giving false statements by
17 reason of the person's failure to recite or acknowledge the record or response to any
18 inquiry made of the person or the person's parent for any purpose, However, if the
19 person is to testify as a witness in a criminal or juvenile delinquency case, the person
20 may be ordered to testify about the expunged case.

21 * * *

22 Art. 924. Expungement; forms

23 A. The following form shall be used for filing a motion, setting a
24 contradictory hearing, and ordering the expungement of juvenile reports and records:

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"
STATE OF LOUISIANA
JUVENILE COURT FOR THE PARISH OF
No. _____ Division: " _____ "
Filed:
State of Louisiana
in the interests of

Date of Birth: / /

MOTION FOR EXPUNGEMENT

NOW INTO COURT COMES _____ , in proper person or
through undersigned counsel, and herein moves this Honorable Court:

(1) To order the expungement of all reports and records, including but not
limited to the record of arrest and order of disposition concerning the below
described conduct or condition, and directing all officials, agencies, institutions,
boards, and systems, including their employees, agents, consultants, and special
committees, to expunge any record in any form concerning the arrest of the mover,
whether on microfilm, computer card or tape, or any other photographic, fingerprint,
DNA, or any other information of any and all kinds or descriptions; and

(2) To direct each agency and law enforcement office having any such
records, including but not limited to the above named entities, to file a sworn
affidavit with the Clerk of Court for Juvenile Court to the effect that such records
have been expunged and that no notation or reference has been retained in any
central depository which could or might lead to the inference that the expunged
record was ever on file with that agency or law enforcement office, except as
otherwise specifically provided by law.

1 I.

2 Full name of mover:

3 SEX: { } Male { } Female Social Security No.:

4 Race/Ethnicity: Date of Birth: / /

5 Address: Street: Apt. #:

6 City/State: Zip:

7 NOTE: A separate page shall be completed for EACH of the charges for
8 which the expungement is sought. Failure to provide ALL of the requested
9 information may result in dismissal of the motion for insufficiency.

10 II.

11 Offense Report #: Offense Charged:

12 Date of Arrest: / /

13 Arresting Agency:

14 City/Parish of Arrest:

15 III.

16 Action Taken: (Check appropriate action and insert date)

17 { } Adjudicated on / /

18 IV.

19 Court Docket and Complaint #: , #

20 Authority for motion (Check only one)

21 { } AND the court which had exercised juvenile jurisdiction no longer exercises
22 such in accordance with Children's Code Article 313.

23 { } AND the adjudication was not for murder, manslaughter, a sex offense
24 requiring registration pursuant to R.S. 15:542(A)(3), kidnapping, or armed
25 robbery.

26 { } AND mover has no adult felony conviction or adult misdemeanor conviction
27 involving the use of a firearm against a person.

28 { } AND mover has no pending indictment or bill of information against him.

1 B. The following form shall be used to order the expungement:

2 STATE OF LOUISIANA

3 JUVENILE COURT FOR THE PARISH OF

4 No. _____ Division: " _____ "

5 Filed: _____
6 State of Louisiana
7 in the interests of

8 _____
9 Date of Birth: _____ / _____ / _____

10 ORDER OF EXPUNGEMENT

11 CONSIDERING the Motion for Expungement and the evidence adduced as
12 to the following described matter, and as to the following described conduct or
13 conditions:

14 Item #'s Offense(s) Charged Date of Arrest(s) Arresting Agencies

<u>Item #'s</u>	<u>Offense(s) Charged</u>	<u>Date of Arrest(s)</u>	<u>Arresting Agencies</u>

15 IT IS ORDERED that the clerk of court expunge all reports and records, in
16 any medium, including but not limited to pleadings, exhibits, reports, minute entries,
17 correspondence, and all other documents. The court may maintain a confidential
18 record of the fact of an adjudication, which may be released only upon written
19 motion of a court exercising criminal jurisdiction over the mover herein and then
20 only for the purposes authorized by law.

21 IT IS FURTHER ORDERED that all officials, agencies, institutions, boards,
22 systems, and law enforcement officers and their employees, agents, and consultants
23 expunge all reports and records, in any medium, concerning the above described
24 matter, whether on microfilm, computer card or tape, or any other photographic

1 fingerprint, DNA, or any other information of any and all kinds and descriptions.
2 The custodian of reports and records of the agency or office may maintain a copy of
3 this order. However, the custodian shall not disclose the fact that an order is
4 maintained or that the expunged reports or records previously existed except upon
5 written order of the court.

6 IT IS FURTHER ORDERED that each agency and law enforcement office
7 herein served and having any reports or records of the conduct or condition file a
8 sworn affidavit with the Clerk of Court for Juvenile Court, to the effect that the
9 reports and records have been expunged and that no notation or references have been
10 retained in any central depository which could or might lead to the inference that any
11 report or record was on file with the agency or law enforcement office served, which
12 affidavit shall be filed with the Clerk of Court of Juvenile Court for the parish of
13 _____ within _____ days of service of this order.

14 Signed at _____, Louisiana this _____ day of _____, 20__.

15 _____
16 Judge

17 *Note: Please add any necessary agencies below.*

18 PLEASE SERVE:

19 Parish of _____

20 District Attorney _____ Clerk of Court _____

21 Bureau of Identification & Information _____ Sheriff _____

22 Attn: Expungement

23 7919 Independence Blvd.

24 Baton Rouge, Louisiana 70806

25 and

26 Name of Agency _____ Name of Agency _____

27 Attn: _____ Attn: _____

28 Address _____ Address _____

29 City/State/Zip _____ City/State/Zip" _____

information is relevant and necessary to the performance of an individuals duties and enhances services to the child or his family, the court is authorized to release the records, reports, or certain information contained in the records and reports, to appropriate individuals.

Proposed law amends present law to provide that the court may authorize the release of the records, reports, or certain information contained in the records or reports, to appropriate individuals only when they are providing services to the child whose records are disclosed during the pendency of the matter.

Present law provides that when the information contained in a record or report is necessary to a specific investigation or proceeding, the court may order the release of individual records and reports, or certain information contained therein, to a petitioner, for the specific purpose for which the court authorizes release.

Proposed law retains present law and requires the juvenile court to provide notice to the juvenile and his attorney of the petition and an opportunity to object. Proposed law also requires the court to hold a hearing on the petition if requested by the petitioner or juvenile, and requires the petition to state the reason for requesting the information, the use of the information, and the names of the persons who will have access to the information.

Present law authorizes the district attorney or the court to release to the victim of a delinquent act constituting a crime of violence, or to the victim's legal representative or designated family member, certain information contained in the predisposition report to the court.

Proposed law requires each person, other than the juvenile who is the subject of the record, his parents, and his attorney, to whom a juvenile record or information from a juvenile record is to be disclosed, to execute a nondisclosure agreement relative to the record or information.

Present law authorizes the release of certain reports and records concerning juvenile court proceeding to the sentencing judge for purposes of sentencing and to the district attorney for purposes of charging the offender as a habitual offender.

Proposed law deletes the requirement that the reports and records be released to the district attorney.

Proposed law provides that it is the duty of the person's attorney to inform the person of the consequences of being adjudicated delinquent, the definition of expungement, and the timelines for expungement.

Present law provides relative to the expungement of juvenile records.

Proposed law amends the grounds and requirements for obtaining an expungement relative to the following:

- (1) Records concerning conduct that did not result in an adjudication and those for certain offenses related to sexual exploitation.
- (2) Records concerning conduct that resulted in delinquency adjudication.
- (3) Records concerning an adjudication for murder, manslaughter, certain sex offenses, kidnapping, or armed robbery.

Proposed law provides that there are no costs for filing a petition requesting an expungement of a juvenile record, for the court to issue an order of expungement, or for agencies to physically expunge the records.

Proposed law provides for and requires the use of forms for filing a motion, setting a contradictory hearing, and ordering the expungement of juvenile reports and records. Further provides a form for filing an affidavit of response to a motion for expungement.

(Amends R.S. 15:579, 593, and 614(B), and Ch.C. Arts. 412(A), (D)(intro. para.), (9), and (10), (E), (G)(4), (H), (I), (J), and (K), 414(A), 917, 918, 919(A), (B), (E), and (F), 920(A), 921(A)(intro. para.) and (D), and 922; Adds R.S. 15:614(C) and Ch.C. Arts. 405(H), 412(L) and (M), 901(G) and (H), 924, and 925); Repeals Ch.C. Art. 412(D)(11) and (12)