

2019 Regular Session

SENATE BILL NO. 97

BY SENATOR BISHOP

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL RECORDS. Provides for "clean slate" limited access to a person's criminal history record relative to certain misdemeanors. (1/1/20)

AN ACT

To enact Part V of Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 44:68 through 68.13, relative to public records; to provide for "clean slate" limited access to criminal history record information under certain circumstances; to provide procedures relative to a court order for limited access; to create a central registry for criminal history record information; to provide relative to use of criminal history record information for employment and licensing; to provide for employer immunity from civil liability under certain circumstances; to provide exceptions; to provide definitions; to provide relative to legislative intent; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part V of Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950, comprised of R.S. 44:68 through 68.13, is hereby enacted to read as follows:

§68. Short title

This Part shall be known as and may be cited as the "Louisiana Clean Slate Law".

§68.1. Legislative findings and intent

The legislature finds and declares that:

1 A. Persons who have been arrested and charged with offenses that do not
2 lead to convictions may be inherently harmed by the maintenance of that
3 record, and have a constitutional presumption of innocence.

4 B. Persons convicted of crimes in this state should serve their sentences
5 as ordered by the courts of this state.

6 C. After nonviolent persons convicted of crimes have served their
7 sentences and remained crime free long enough to demonstrate rehabilitation,
8 these persons' access to employment, housing, education, and other necessities
9 of life should be fully restored. However, criminal justice agencies have a
10 legitimate need for access to all criminal history record information in order to
11 effectively carry out those agencies' duties to protect the public.

12 D. Given these considerations, the state shall provide a "clean slate"
13 remedy so as to:

14 (1) Create a strong incentive for avoidance of recidivism by offenders.

15 (2) Provide hope for the alleviation of the hardships of having a criminal
16 record by offenders who are trying to rehabilitate themselves.

17 (3) Conserve public funds that otherwise must be spent in the
18 administration of criminal justice when offenders recidivate.

19 (4) Ensure appropriate access to criminal history record information by
20 criminal justice agencies.

21 E. The "clean slate" remedy established by this Part should be
22 implemented without cost to the former offender.

23 §68.2. Scope

24 A. Nothing in this Part shall be construed to apply to:

25 (1) Information concerning a juvenile, unless the juvenile has been
26 adjudicated as an adult.

27 (2) Intelligence or investigative information, treatment information,
28 including medical and psychiatric information, stolen property information,
29 missing person information, employment history information, personal history

1 information, nor any identifying information that does not indicate involvement
2 of the person in the criminal justice system.

3 B. Criminal history record information maintained as a part of any
4 record described in Subsection A of this Section shall not be disseminated
5 except in compliance with the provisions of this Part.

6 §68.3. Definitions.

7 For purposes of this Section:

8 (1) "Conviction" means any disposition of charges adverse to the
9 defendant, including a verdict of guilty, a plea of guilty, deferred adjudication,
10 and adjudication withheld for the perpetration or attempted perpetration of or
11 conspiracy to commit an offense involving arson. "Conviction" shall not
12 include a decision not to prosecute, a dismissal, or an acquittal, except when the
13 acquittal is due to a finding of not guilty by reason of insanity and the person
14 was committed. However, a dismissal entered after a period of probation,
15 suspension, or deferral of sentence shall be included in the definition of
16 "conviction" for purposes of this Part.

17 (2)(a) "Criminal history record" or "criminal history record
18 information" means information collected by criminal justice agencies on
19 persons consisting of identifiable descriptions and notations of arrests,
20 detentions, indictments, bills of information, or any formal criminal charges,
21 and any disposition arising therefrom, including sentencing, correctional
22 supervision, and release. These terms include but are not limited to the
23 following:

24 (i) A description or notation of any arrests, any formal criminal charges,
25 and the dispositions of those criminal charges.

26 (ii) A photograph or photographs of the person taken pursuant to an
27 arrest or other involvement in the criminal justice system.

28 (iii) Personal identifying information of a person displayed in
29 conjunction with any other record of the person's involvement in the criminal

1 justice system.

2 (b) For purposes of this Part, "criminal history record" and "criminal
3 history record information" do not include:

4 (i) Records or information concerning any juvenile criminal conduct,
5 unless the juvenile has been adjudicated as an adult.

6 (ii) Intelligence or investigative information, treatment information,
7 including medical and psychiatric information, stolen property information,
8 missing person information, employment history information, personal history
9 information, nor any personal identifying information that does not indicate
10 involvement of the person in the criminal justice system.

11 (3) "Criminal justice agency" means any court with criminal
12 jurisdiction, or any other governmental agency specifically authorized by law
13 to perform as its principal function the administration of criminal justice and
14 which allocates a substantial portion of its annual budget to this function, and
15 that either:

16 (a) Has the power of investigation, arrest, detention, prosecution,
17 adjudication, treatment, supervision, rehabilitation, or release of persons
18 suspected, charged, or convicted of a crime.

19 (b) Collects, stores, processes, transmits, or disseminates criminal history
20 record or crime information.

21 (4) "Criminal justice system" means that body of agencies at the federal,
22 state, or local level that may legally arrest, detain, prosecute, adjudicate, treat,
23 supervise, rehabilitate or release, or collect, store, process, transmit, or
24 disseminate criminal history record information.

25 (5) "Disposition" means the formal conclusion of a criminal proceeding
26 at whatever stage it occurs in the criminal justice system.

27 (6) "Intelligence information" includes information related to the habits,
28 practices, characteristics, possessions, associations, or financial status of any
29 person that is compiled in an effort to anticipate, prevent, monitor, investigate,

1 or prosecute criminal activity. Notwithstanding the definition of "treatment
2 information" contained in this Section, "intelligence information" may include
3 information on the prescribing, dispensing, selling, obtaining, or using of a
4 controlled dangerous substance as defined in the Uniform Controlled
5 Dangerous Substances Law.

6 (7) "Investigative information" means information assembled as a result
7 of the performance of any inquiry, formal or informal, into a criminal incident
8 or an allegation of criminal acts.

9 (8) "Personal identifying information" means information that alone or
10 in conjunction with other information identifies a person, including a person's
11 name, address, date of birth, photograph, and social security number or other
12 government-issued identification number.

13 (9) "Treatment information" means information concerning medical,
14 psychiatric, psychological, or other rehabilitative treatment provided,
15 suggested, or prescribed for any person charged with or convicted of an offense.

16 §68.4. Duties of criminal justice agencies

17 A. It shall be the duty of every criminal justice agency to maintain
18 complete and accurate criminal history record information and to report this
19 information at the times and in the manner required by the provisions of this
20 Part or other applicable law.

21 B. Any criminal justice agency that disseminates criminal history record
22 information shall indicate to the recipient that the information disseminated is
23 only that information contained in the agency's own file and the date of the last
24 entry.

25 C. Each criminal justice agency shall establish reasonable procedures for
26 the dissemination of criminal history record information in accordance with the
27 provisions of this Part.

28 D. Each agency shall include, as a permanent part of a criminal history
29 record, a list of all persons and entities to whom it has disseminated the criminal

1 history record information, including the date and purpose for which the
2 criminal history record information was disseminated. This list shall be
3 maintained separate from the criminal history record itself.

4 §68.5. Criminal history record information; dissemination; exceptions

5 A.(1) Criminal history record information maintained by a criminal
6 justice agency shall be disseminated, without charge, upon request and for any
7 lawful purpose, to any other criminal justice agency.

8 (2) Criminal history record information maintained by a criminal justice
9 agency shall be disseminated, without charge, upon request and for any lawful
10 purpose, to any noncriminal justice agency that is providing a service for which
11 a criminal justice agency would otherwise be responsible.

12 B.(1) Criminal history record information shall be disseminated by a
13 criminal justice agency to a noncriminal justice agency or to an individual only
14 upon written request and subject to the limitations provided by this Part.

15 (2) A fee may be charged by the criminal justice agency for each request
16 for a criminal history record made by a noncriminal justice agency or an
17 individual, except for a request made in accordance with Paragraph (C)(1) of
18 this Section.

19 (3) Except as provided for in Subsection C of this Section, before a
20 criminal justice agency disseminates criminal history record information to a
21 noncriminal justice agency or an individual, it shall extract the following:

22 (a) All notations of arrests, indictments, or other information relating to
23 the initiation of criminal proceedings where:

24 (i) Three years have elapsed from the date of arrest.

25 (ii) No conviction has occurred and no other disposition is indicated in
26 the record.

27 (iii) Nothing in the record indicates that any proceeding seeking a
28 conviction is pending.

29 (b) All information relating to a conviction or other final disposition that

1 is subject to limited access under this Part.

2 (c) All information relating to the arrest, indictment, or information
3 leading to the conviction or other final disposition that is subject to limited
4 access under this Part.

5 C. Exceptions. (1) Subsection B of this Section shall not apply if the
6 request for criminal history record information is made by the Department of
7 Children and Family Services in the performance of any duty or function
8 authorized by law.

9 (2) Paragraph (B)(3) of this Section shall not apply:

10 (a) To the verification of information provided by an applicant if federal
11 law, including rules and regulations promulgated by a self-regulatory
12 organization that has been created under federal law, requires the consideration
13 of an applicant's criminal history for purposes of employment.

14 (b) To the verification of information provided to the Louisiana Supreme
15 Court in its capacity to govern the practice, procedure, and conduct of all
16 courts, admissions to the bar, the practice of law, the administration of courts,
17 or supervision of judicial branch officers.

18 (3) Subparagraphs (B)(3)(b) and (c) of this Section shall not apply if the
19 request is made pursuant to a court order under either of the following
20 circumstances:

21 (a) In a case brought under state law relative to child custody or
22 protection from abuse.

23 (b) By an employer against whom a claim of civil liability has been
24 brought as described under R.S. 44:68.13 for purposes of defending against a
25 claim of civil liability.

26 §68.6. Clean slate limited access; duties of criminal justice agencies; court order

27 A. The following shall be subject to limited access:

28 (1) Subject to the exceptions under Subsection B of this Section, criminal
29 history record information pertaining to a conviction of a misdemeanor

1 punishable by imprisonment of no more than two years, if the person has been
2 free for ten years from conviction for any offense punishable by imprisonment
3 of at least one year, provided that the person has completed any financial
4 obligations of the sentence.

5 (2) Criminal history record information, including a record of arrest,
6 pertaining to charges that resulted in a final disposition other than a conviction.

7 B. Exceptions. (1) Limited access to records under this Section shall not
8 be granted with regard to any of the following offenses, or an attempt,
9 conspiracy, or solicitation to commit any of the following offenses:

10 (a) An offense under Part II of Chapter 1 of Title 14 of the Louisiana
11 Revised Statutes of 1950, relative to offenses against the person, except simple
12 battery.

13 (b) An offense under Part IV of Chapter 1 of Title 14 of the Louisiana
14 Revised Statutes of 1950, relative to offenses affecting the family.

15 (c) An offense under Subpart A(1) of Part VI of Chapter 1 of Title 14 of
16 the Louisiana Revised Statutes of 1950, relative to illegal carrying and discharge
17 of weapons.

18 (d) An offense that is a sex offense as defined in R.S. 15:541(24).

19 (e) R.S. 14:92, contributing to the delinquency of juveniles.

20 (f) R.S. 14:102.1, cruelty to animals.

21 (2) Limited access to records under this Section shall not be granted with
22 regard to records of a person who has been convicted of any of the following:

23 (a) A felony.

24 (b) Two or more offenses punishable by imprisonment of at least two
25 years.

26 (c) Four or more offenses punishable by imprisonment of at least one
27 year.

28 (d) R.S. 8:654, mutilating, disinterring human remains.

29 (e) R.S. 14:89.3, sexual abuse of an animal.

1 (f) R.S. 14:101, desecration of graves.

2 (g) R.S. 14:106, obscenity.

3 (h) R.S. 14:117.1, paramilitary organizations.

4 (i) R.S. 14:402, contraband, when the contraband involves a dangerous
5 weapon or other instrumentality used or intended for probable use to aid in an
6 escape.

7 (j) R.S. 15:542.1.4, failure to register and notify as a sex offender or child
8 predator.

9 C. (1) Beginning on January 1, 2020, and on the first day of each month
10 thereafter, the clerk of court of each district, municipal, and traffic court shall
11 transmit to the Louisiana Bureau of Criminal Identification and Information
12 the record of any conviction subject to limited access under this Section for the
13 previous month, for entry into the Clean Slate Criminal Record Registry
14 provided for in R.S. 44:68.8.

15 (2) Beginning on January 1, 2020, and on the first day of each month
16 thereafter, each criminal justice agency shall transmit to the Louisiana Bureau
17 of Criminal Identification and Information the record of charges subject to
18 limited access under this Section, within thirty days after entry of the
19 disposition and payment of any court ordered obligation, for entry into the
20 Clean Slate Criminal Record Registry provided for in R.S. 44:68.8.

21 (3) If the bureau determines through a validation process that a record
22 transmitted is not eligible for limited access or does not match data held in the
23 bureau, the bureau shall notify the clerk of court or criminal justice agency of
24 its determination within thirty days of receiving the information.

25 (4) Within thirty days of receipt of the bureau's determination that a
26 record is not eligible for limited access or does not match data held in the
27 bureau, the clerk of court or criminal justice agency shall remove from the list
28 of eligible records any record for which the clerk of court or criminal justice
29 agency received a notification of ineligibility or nonmatching bureau data.

1 D. (1) Each court shall issue monthly an order for limited access for any
2 record for which no notification of ineligibility or nonmatching data was
3 received.

4 (2) A criminal history record that is the subject of an order for limited
5 access under this Section shall be made available to a noncriminal justice
6 agency or an individual only as provided for in R.S. 44:68.5(B).

7 E. Nothing in this Section shall preclude the filing of a petition for
8 limited access under R.S. 44:68.7.

9 §68.7. Petition for limited access; court verification of clean slate eligibility

10 A. (1) Except as provided in Subsection C of this Section, upon petition
11 of a person who has been free of conviction for a period of at least ten years for
12 any offense punishable by at least one year in prison, the district court for the
13 judicial district in which the conviction occurred shall enter an order that
14 criminal history record information maintained by any criminal justice agency
15 pertaining to a conviction for an eligible misdemeanor, as set forth in
16 Subsection B of this Section, shall be disseminated only to a criminal justice
17 agency or as provided in R.S. 44:68.5(B).

18 (2) The petitioner shall not be required to pay any fee to the clerk of
19 court, the Louisiana Bureau of Criminal Identification and Information, sheriff,
20 district attorney, or any other agency or individual to obtain an order for
21 limited access if a certification from the district attorney is submitted by the
22 petitioner verifying that the petitioner has been free of any conviction for a
23 period of at least ten years for any offense punishable by at least one year in
24 prison.

25 B. The following shall be eligible for a court order for limited access
26 pursuant to Subsection A of this Section:

27 (1) Except as provided in Subsection C of this Section, criminal history
28 record information pertaining to a conviction of a misdemeanor punishable by
29 imprisonment of no more than two years, if the person has been free for ten

1 years from conviction for any offense punishable by imprisonment of at least
2 one year, provided that the person has completed any financial obligations of
3 the sentence.

4 (2) Criminal history record information, including a record of arrest,
5 pertaining to charges that resulted in a final disposition other than a conviction.

6 C. Exceptions. (1) An order for limited access under this Section shall not
7 be granted with regard to any of the following offenses, or an attempt,
8 conspiracy, or solicitation to commit any of the following offenses:

9 (a) An offense under Part II of Chapter 1 of Title 14 of the Louisiana
10 Revised Statutes of 1950, relative to offenses against the person, except simple
11 battery.

12 (b) An offense under Part IV of Chapter 1 of Title 14 of the Louisiana
13 Revised Statutes of 1950, relative to offenses affecting the family.

14 (c) An offense under Subpart A(1) of Part VI of Chapter 1 of Title 14 of
15 the Louisiana Revised Statutes of 1950, relative to illegal carrying and discharge
16 of weapons.

17 (d) An offense that is a sex offense as defined in R.S. 15:541(24).

18 (e) R.S. 14:92, contributing to the delinquency of juveniles.

19 (2) An order for limited access under this Section shall not be granted to
20 a person who:

21 (a) Has been convicted of any grade of murder, kidnapping, or rape,
22 aggravated arson, aggravated assault, or theft of property valued at five
23 hundred thousand dollars or more.

24 (b) Has been convicted within the previous twenty years of any felony
25 listed in Subparagraphs (1)(a) through (d) of this Subsection that is punishable
26 by imprisonment of at least seven years.

27 (c) Has been convicted within the previous fifteen years of any of the
28 following:

29 (i) Two or more offenses each punishable by imprisonment of at least two

1 years.

2 (ii) R.S. 8:654, mutilating, disinterring human remains.

3 (iii) R.S. 14:89.3, sexual abuse of an animal.

4 (iv) R.S. 14:101, desecration of graves.

5 (v) R.S. 14:106, obscenity.

6 (vi) R.S. 14:117.1, paramilitary organizations.

7 (vii) R.S. 14:402, contraband when the contraband involves a dangerous
8 weapon or other instrumentality used or intended for probable use to aid in an
9 escape.

10 (d) Has been convicted of four or more offenses each punishable by
11 imprisonment of at least two years.

12 D. The court shall provide notice of the filing of a petition under this
13 Section to the district attorney within ten days of filing. Within thirty days of
14 receipt of notice of the petition, the district attorney may file an objection to the
15 petition. If no objection is filed, the court may grant the petition without
16 further hearing if the requirements of this Section have been met.

17 E. Upon the filing of a petition for limited access, the court shall order
18 and be entitled to the petitioner's criminal history record information as
19 maintained in the Clean Slate Criminal Record Registry provided for in R.S.
20 44:68.8, as a means of verifying that the information that is the subject of the
21 petition is eligible for limited access. The court may also verify that the
22 information that is the subject of the petition is eligible for limited access by
23 other means it deems appropriate.

24 F. Notice of an order for limited access shall be submitted promptly to
25 the Louisiana Bureau of Criminal Identification and Information for entry in
26 the Clean Slate Criminal Record Registry provided for in R.S. 44:68.8. The
27 bureau shall notify promptly all criminal justice agencies possessing criminal
28 history record information related to the conviction subject to the limited access
29 order that access to the criminal history record information has been limited by

1 court order.

2 §68.8. Clean Slate Criminal Record Registry; information submitted by
3 criminal justice agencies

4 A. The Louisiana Bureau of Criminal Identification and Information
5 shall develop and maintain a central registry known as the Clean Slate Criminal
6 Record Registry. The registry shall contain the information transmitted to the
7 bureau pursuant to the provisions of this Part. Upon receipt of the information,
8 the bureau shall enter promptly the information into the registry. The bureau
9 shall accept electronically submitted information from any court or other
10 criminal justice agency.

11 B. The bureau shall provide access to the information contained in the
12 registry only in accordance with the provisions of this Part.

13 C. The bureau may promulgate rules and regulations in accordance with
14 the Administrative Procedure Act to implement the provisions of this Part
15 relative to the receipt, storage, and dissemination of criminal history record
16 information.

17 §68.9. Order to vacate an order for limited access

18 A. Upon petition of the district attorney to the court with jurisdiction
19 where a conviction occurred, and with notice to the defendant and opportunity
20 to be heard, the court shall vacate an order for limited access granted under this
21 Part if the court determines that the order was erroneously entered and not in
22 accordance with the provisions of this Part.

23 B. Upon a defendant's conviction of a misdemeanor or felony offense and
24 motion of the district attorney, the court shall enter an order vacating any prior
25 order for limited access pertaining to a record of the defendant, except an order
26 under R.S. 44:68.6(A)(2), relative to a final disposition other than a conviction.

27 C. An order to vacate entered pursuant to Subsection A or B of this
28 Section shall be transmitted to the Louisiana Bureau of Criminal Identification
29 and Information for entry into the Clean Slate Criminal Record Registry

1 provided for in R.S. 44:68.8.

2 §68.10. Effect of records subject to limited access; disclosure not required

3 A.(1) Except if requested or required by a criminal justice agency, or if
4 disclosure to a noncriminal justice agency is authorized or required by this
5 Part, no person shall be requested or required to disclose information relative
6 to the person's criminal history record that is subject to limited access under
7 this Part. A person requested or required to provide information in violation
8 of this Subsection may respond as if the arrest, indictment, or offense did not
9 occur.

10 (2) This Subsection shall not apply if federal law, including rules and
11 regulations promulgated by a self-regulatory organization that has been created
12 under federal law, requires the consideration of an applicant's criminal history
13 for purposes of employment.

14 B. A record subject to limited access under this Part shall not be
15 considered a conviction that would prohibit the employment of a person under
16 any law of this state, or under any federal law that prohibits employment based
17 on a state conviction to the extent permitted by federal law.

18 §68.11. Use of records for employment

19 A. Whenever an employer is in receipt of information that is part of an
20 applicant's criminal history record, the employer may use that information for
21 the purpose of determining whether or not to hire the applicant only in
22 accordance with this Section.

23 B. Felony and misdemeanor convictions of an employment applicant may
24 be considered by the employer only to the extent to which the convictions relate
25 to the applicant's suitability for employment in the position for which the
26 applicant has applied.

27 C. The employer shall notify the applicant in writing if the decision not
28 to hire the applicant is based in whole or in part on criminal history record
29 information.

1 **§68.12. Use of records by licensing agencies**

2 **A. Except as otherwise provided by this Part, a board, commission, or**
3 **department, when determining eligibility for licensing, certification,**
4 **registration, or permission to engage in a trade, profession, or occupation, may**
5 **consider an applicant's convictions, except that the convictions shall not**
6 **preclude the issuance of a license, certificate, registration, or permit.**

7 **B. The following information shall not be used in consideration of an**
8 **application for a license, certificate, registration, or permit:**

9 **(1) Records of arrest if there is no conviction based on the arrest.**

10 **(2) Convictions that have been expunged.**

11 **(3) Convictions for which the person has received a pardon from the**
12 **governor.**

13 **(4) Convictions that do not relate to the applicant's suitability for the**
14 **license, certificate, registration, or permit.**

15 **C. A board, commission, or department that is authorized by law to**
16 **license, certify, register, or permit the practice of trades, occupations, or**
17 **professions may refuse to grant or renew, or may suspend or revoke, any**
18 **license, certificate, registration or permit for the following causes:**

19 **(1) The applicant or licensee has been convicted of a felony.**

20 **(2) The applicant or licensee has been convicted of a misdemeanor that**
21 **relates to the trade, occupation, or profession for which the license, certificate,**
22 **registration, or permit is sought or has been granted.**

23 **D. The board, commission, or department shall notify the person in**
24 **writing of the reasons for a decision that prohibits the applicant from practicing**
25 **the trade, occupation, or profession, if the decision is based in whole or part on**
26 **conviction of any crime determined by a review of criminal history record**
27 **information obtained by the board, commission, or department pursuant to this**
28 **Part.**

29 **§68.13. Employer immunity from liability**

1 **An employer who employs or otherwise engages a person whose criminal**
 2 **history record is subject to limited access pursuant to this Part shall be immune**
 3 **from liability for any claim arising out of the misconduct of the person, if the**
 4 **misconduct relates to the portion of the criminal history record that is subject**
 5 **to limited access.**

6 Section 2. This Act shall be effective on January 1, 2020.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 97 Original

2019 Regular Session

Bishop

Proposed law provides for "clean slate" limited access to certain criminal history record information under certain circumstances.

Proposed law provides that criminal history record information maintained by a criminal justice agency is to be disseminated, without charge, upon request and for any lawful purpose, to any other criminal justice agency and to any noncriminal justice agency that is providing a service for which a criminal justice agency would otherwise be responsible.

Proposed law provides that criminal history record information is to be disseminated by a criminal justice agency to a noncriminal justice agency or to an individual only upon written request and subject to the limitations provided by proposed law. Proposed law further provides that a fee may be charged by the criminal justice agency for each request for a criminal history record made by a noncriminal justice agency or an individual, except for a request made by the Dept. of Children and Family Services as provided for by proposed law.

Proposed law provides that before a criminal justice agency disseminates criminal history record information to a noncriminal justice agency or an individual, it must extract the following, unless the request has been made by the Dept. of Children and Family Services in the performance of any duty or function authorized by present law:

- (1) All notations of arrests, indictments, or other information relating to the initiation of criminal proceedings where:
 - (a) Three years have elapsed from the date of arrest.
 - (b) No conviction has occurred and no other disposition is indicated in the record.
 - (c) Nothing in the record indicates that any proceeding seeking a conviction is pending.
- (2) All information relating to a conviction or other final disposition that is subject to limited access under proposed law.
- (3) All information relating to the arrest, indictment, or information leading to the conviction or other final disposition that is subject to limited access under proposed law.

Proposed law provides that the information required by proposed law to be redacted will not

be redacted under the following circumstances:

- (1) The verification of information provided by an applicant if federal law, including rules and regulations promulgated by a self-regulatory organization that has been created under federal law, requires the consideration of an applicant's criminal history for purposes of employment.
- (2) The verification of information provided to the La. Supreme Court in its capacity to govern the practice, procedure, and conduct of courts, admissions to the bar, the practice of law, the administration of courts, or supervision of judicial branch officers.

Proposed law provides that information relating to a conviction or other final disposition, and information relating to the arrest, indictment, or information leading to the conviction or other final disposition, will not be redacted if the request for information is made pursuant to a court order under either of the following circumstances:

- (1) In a case brought under state law relative to child custody or protection from abuse.
- (2) By an employer against whom a claim of civil liability has been brought arising out of its employment of a person whose criminal history record information is subject to limited access under proposed law, for purposes of defending against the claim.

Proposed law provides that the following is subject to limited access:

- (1) Criminal history record information pertaining to a conviction of a misdemeanor punishable by imprisonment of up to two years, if the person has been free for ten years from conviction for any offense punishable by imprisonment of at least one year, provided that the person has completed financial obligations of the sentence.
- (2) Criminal history record information, including a record of arrest, pertaining to charges that resulted in a final disposition other than a conviction.

Proposed law provides that limited access to records under proposed law cannot be granted with regard to any of the following offenses, or an attempt, conspiracy, or solicitation to commit any of the following offenses:

- (1) Present law relative to offenses against the person, except simple battery.
- (2) Present law relative to offenses affecting the family.
- (3) Present law relative to illegal carrying and discharge of weapons.
- (4) A sex offense as defined in present law.
- (5) Contributing to the delinquency of juveniles.
- (6) Cruelty to animals.

Proposed law further provides that limited access to records under proposed law cannot be granted with regard to records of a person who has been convicted of any of the following:

- (1) A felony.
- (2) Two or more offenses punishable by imprisonment of at least two years.
- (3) Four or more offenses punishable by imprisonment of at least one year.

- (4) Mutilating, disinterring human remains.
- (5) Sexual abuse of an animal.
- (6) Desecration of graves.
- (7) Obscenity.
- (8) Paramilitary organizations.
- (9) Contraband, when the contraband involves a dangerous weapon or other instrumentality used or intended for probable use to aid in an escape.
- (10) Failure to register and notify as a sex offender or child predator.

Proposed law provides that the La. Bureau of Criminal Identification and Information is to develop and maintain a central registry known as the Clean Slate Criminal Record Registry, which is to contain the information transmitted to the bureau pursuant to the provisions of proposed law. Proposed law further provides that the bureau is to accept electronically submitted information from any court or other criminal justice agency. Proposed law further provides that the bureau is to provide access to the information contained in the registry only in accordance with the provisions of proposed law. Proposed law further provides that the bureau may promulgate rules and regulations in accordance with present law (Administrative Procedure Act) to implement the provisions of proposed law relative to the receipt, storage, and dissemination of criminal history record information.

Proposed law provides that beginning on 1/1/20 and on the first day of each month thereafter, the clerk of court of each district, municipal, and traffic court is to transmit to the La. Bureau of Criminal Identification and Information the record of any conviction subject to limited access under proposed law for the previous month, for entry into the Clean Slate Criminal Record Registry. Proposed law further provides that beginning on 1/1/20 and on the first day of each month thereafter, each criminal justice agency is to transmit to the bureau the record of charges subject to limited access under proposed law, within 30 days after entry of the disposition and payment of any court ordered obligation, for entry into the Clean Slate Criminal Record Registry.

Proposed law provides that if the bureau determines through a validation process that a record transmitted is not eligible for limited access or does not match data held in the bureau, the bureau must notify the clerk of court or criminal justice agency of its determination within 30 days of receiving the information. Proposed law further provides that within 30 days of receipt of the bureau's determination that a record is not eligible for limited access or does not match data held in the bureau, the clerk of court or criminal justice agency must remove from the list of eligible records any record for which the clerk of court or criminal justice agency received a notification of ineligibility or nonmatching bureau data.

Proposed law provides that each court is to issue monthly an order for limited access for any record for which no notification of ineligibility or nonmatching data was received.

Proposed law provides that a criminal history record that is the subject of an order for limited access under proposed law will be made available to a noncriminal justice agency or an individual only as provided for in proposed law.

Proposed law does not preclude a person from filing a petition for limited access under other provisions of proposed law that are available.

Proposed law provides that a person may file a petition for limited access in order to obtain an order for limited access, in addition to the limited access otherwise provided for by proposed law.

Proposed law provides that upon the petition of a person who has been free of conviction for a period of at least 10 years for any offense punishable by at least one year in prison, the district court for the judicial district in which the conviction occurred is to enter an order that criminal history record information pertaining to a conviction for an eligible misdemeanor can be disseminated only to a criminal justice agency or to the Dept. of Children and Family Services in the performance of any duty or function authorized by present law.

Proposed law provides that the petitioner cannot be required to pay any fee to the clerk of court, the La. Bureau of Criminal Identification and Information, sheriff, district attorney, or any other agency or individual to obtain an order for limited access, if a certification from the district attorney is submitted by the petitioner verifying that the petitioner has been free of any conviction for a period of at least ten years for any offense punishable by at least one year in prison.

Proposed law provides that the following are eligible for a court order for limited access pursuant to a petition filed under proposed law:

- (1) Criminal history record information pertaining to a conviction of a misdemeanor punishable by imprisonment of no more than two years, if the person has been free for ten years from conviction for any offense punishable by imprisonment of at least one year, provided that the person has completed any financial obligations of the sentence.
- (2) Criminal history record information, including a record of arrest, pertaining to charges that resulted in a final disposition other than a conviction.

Proposed law provides that an order for limited access under proposed law cannot be granted with regard to any of the following offenses, or an attempt, conspiracy, or solicitation to commit any of the following offenses:

- (1) Present law relative to offenses against the person, except simple battery.
- (2) Present law relative to offenses affecting the family.
- (3) Present law relative to illegal carrying and discharge of weapons.
- (4) A sex offense as defined in present law.
- (5) Contributing to the delinquency of juveniles.

Proposed law further provides that an order for limited access under proposed law cannot be granted to a person who:

- (1) Has been convicted of any grade of murder, kidnapping, or rape, aggravated arson, aggravated assault, or theft of property valued at \$500,000 or more.
- (2) Has been convicted within the previous 20 years of any of the following offenses if the offense is a felony punishable by imprisonment of at least seven years:
 - (a) Present law relative to offenses against the person, except simple battery.
 - (b) Present law relative to offenses affecting the family.
 - (c) Present law relative to illegal carrying and discharge of weapons.
 - (d) A sex offense as defined in present law.
- (3) Has been convicted within the previous 15 years of any of the following:

- (a) Two or more offenses punishable by imprisonment of at least two years.
 - (b) Mutilating, disinterring human remains.
 - (c) Sexual abuse of an animal.
 - (d) Desecration of graves.
 - (e) Obscenity.
 - (f) Paramilitary organizations.
 - (g) Contraband, when the contraband involves a dangerous weapon or other instrumentality used or intended for probable use to aid in an escape.
- (4) Has been convicted of four or more offenses each punishable by imprisonment of at least two years.

Proposed law provides that the court is to provide notice of the filing of a petition for limited access under proposed law to the district attorney within ten days of filing. Proposed law further provides that within 30 days of receipt of notice of the petition, the district attorney may file an objection to the petition. Proposed law further provides that if no objection is filed, the court may grant the petition if the requirements of proposed law have been met.

Proposed law provides that, upon the filing of a petition for limited access, the court is entitled to the petitioner's criminal history record information as maintained in the Clean Slate Criminal Record Registry, as a means of verifying that the information that is the subject of the petition is eligible for an order for limited access. Proposed law further provides that the court may also verify that the information that is the subject of the petition is eligible for limited access by other means it deems appropriate.

Proposed law provides that notice of an order for limited access must be submitted promptly to the La. Bureau of Criminal Identification and Information for entry in the Clean Slate Criminal Record Registry. Proposed law further provides that the bureau is to notify promptly all criminal justice agencies possessing criminal history record information subject to the limited access order that access to the information has been limited by court order.

Proposed law provides that, upon petition of the district attorney to the court with jurisdiction where a conviction occurred, and with notice to the defendant and opportunity to be heard, the court is to vacate an order for limited access if it determines that the order was erroneously entered. Proposed law further provides that, upon a defendant's conviction of a misdemeanor or felony offense and motion of the district attorney, the court is to enter an order vacating any prior order for limited access pertaining to a record of the defendant, except for an order for limited access entered on the ground of a final disposition other than a conviction. Proposed law further provides that an order to vacate is to be transmitted to the La. Bureau of Criminal Identification and Information for entry into the Clean Slate Criminal Record Registry.

Proposed law provides that every criminal justice agency must maintain complete and accurate criminal history record information and report the information at the times and in the manner required by the provisions of proposed law. Proposed law further provides that any criminal justice agency that disseminates criminal history record information must indicate to the recipient that the information disseminated is only that information contained in the agency's own file and the date of the last entry.

Proposed law provides that each criminal justice agency must establish reasonable procedures for the dissemination of criminal history record information in accordance with the provisions of proposed law. Proposed law further provides that each agency is to include

a list of all persons and entities to whom it has disseminated the criminal history record information, including the date and purpose for which the criminal history record information was disseminated, which list is to be maintained separate from the criminal history record itself.

Proposed law provides that, except if requested or required by a criminal justice agency, or if disclosure to a noncriminal justice agency is authorized or required by proposed law, no person can be requested or required to disclose information relative to the person's criminal history record that is subject to limited access under proposed law. Proposed law further provides that a person requested or required to provide information in violation of proposed law may respond as if the arrest, indictment, or offense did not occur. Proposed law does not apply if federal law, including rules and regulations promulgated by a self-regulatory organization that has been created under federal law, requires the consideration of an applicant's criminal history for purposes of employment.

Proposed law provides that a record subject to limited access under proposed law cannot be considered a conviction that would prohibit the employment of a person under state present law, or under federal law that prohibits employment based on a state conviction, to the extent permitted by federal law.

Proposed law provides that when an employer receives information that is part of an applicant's criminal history record, the employer may use that information for determining whether or not to hire the applicant only in accordance with proposed law. Proposed law further provides that the convictions of an employment applicant may be considered by the employer only to the extent to which the convictions relate to the applicant's suitability for employment in the position for which the applicant has applied. Proposed law further provides that the employer must notify the applicant in writing if the decision not to hire the applicant is based in whole or in part on criminal history record information.

Proposed law provides that a board, commission, or department, when determining eligibility for licensing, certification, registration, or permission to engage in a trade, profession, or occupation, may consider an applicant's convictions, except that the convictions do not in and of themselves preclude the issuance of a license, certificate, registration, or permit.

Proposed law provides that the following information shall not be used in consideration of an application for a license, certificate, registration, or permit:

- (1) Records of arrest if there is no conviction based on the arrest.
- (2) Convictions that have been expunged.
- (3) Convictions for which the person has received a pardon from the governor.
- (4) Convictions that do not relate to the applicant's suitability for the license, certificate, registration, or permit.

Proposed law provides that a board, commission, or department that is authorized by present law to license, certify, register, or permit the practice of trades, occupations, or professions may refuse to grant or renew, or may suspend or revoke, any license, certificate, registration, or permit for the following causes:

- (1) The applicant or licensee has been convicted of a felony.
- (2) The applicant or licensee has been convicted of a misdemeanor that relates to the trade, occupation, or profession for which the license, certificate, registration, or permit is sought or has been granted.

Proposed law provides that the board, commission, or department must notify the person in writing of the reasons for a decision that prohibits the applicant from practicing the trade, occupation, or profession, if that decision is based in whole or part on conviction of any crime determined by a review of criminal history record information obtained by the board, commission, or department pursuant to present law.

Proposed law provides that an employer who employs a person whose criminal history record is subject to limited access is immune from liability for any claim arising out of the misconduct of the person, if the misconduct relates to the portion of the criminal history record that is subject to limited access.

Proposed law provides the following definitions for purposes of proposed law:

- (1) "Conviction" means any disposition of charges adverse to the defendant, including a verdict of guilty, a plea of guilty, deferred adjudication, and adjudication withheld for the perpetration or attempted perpetration of or conspiracy to commit an offense involving arson. "Conviction" does not include a decision not to prosecute, a dismissal, or an acquittal, except when the acquittal is due to a finding of not guilty by reason of insanity and the person was committed. However, a dismissal entered after a period of probation, suspension, or deferral of sentence is included in the definition of "conviction".
- (2) "Criminal history record" or "criminal history record information" means information collected by criminal justice agencies on persons consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition thereof, including sentencing, correctional supervision, and release. These terms include the following:
 - (a) A description or notation of any arrests, any formal criminal charges, and the dispositions of those criminal charges.
 - (b) A photograph or photographs of the person taken pursuant to an arrest or other involvement in the criminal justice system.
 - (c) Personal identifying information of a person displayed in conjunction with any other record of the person's involvement in the criminal justice system.

However, these terms do not include records or information concerning juvenile criminal conduct, unless the juvenile has been adjudicated as an adult, and intelligence or investigative information, treatment information, stolen property information, missing person information, employment history information, personal history information, nor any personal identifying information that does not indicate involvement of the person in the criminal justice system.

- (3) "Criminal justice agency" means any court with criminal jurisdiction, or any other governmental agency specifically authorized by law to perform as its principal function the administration of criminal justice and which allocates a substantial portion of its annual budget to this function, and that either:
 - (a) Has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation, or release of persons suspected, charged, or convicted of a crime.
 - (b) Collects, stores, processes, transmits, or disseminates criminal history record or crime information.
- (4) "Criminal justice system" means that body of agencies at the federal, state, or local level that may legally arrest, detain, prosecute, adjudicate, treat, supervise,

- rehabilitate or release, or collect, store, process, transmit, or disseminate criminal history record information.
- (5) "Disposition" means the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.
 - (6) "Intelligence information" includes information related to the habits, practices, characteristics, possessions, associations, or financial status of any person that is compiled in an effort to anticipate, prevent, monitor, investigate, or prosecute criminal activity.
 - (7) "Investigative information" means information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal acts.
 - (8) "Personal identifying information" means information that alone or in conjunction with other information identifies a person, including a person's name, address, date of birth, photograph, and social security number or other government-issued identification number.
 - (9) "Treatment information" means information concerning medical, psychiatric, psychological, or other rehabilitative treatment provided, suggested, or prescribed for any person charged with or convicted of an offense.

Proposed law does not apply to the following:

- (1) Information concerning a juvenile, unless the juvenile has been adjudicated as an adult.
- (2) Intelligence or investigative information, treatment information, including medical and psychiatric information, stolen property information, missing person information, employment history information, personal history information, nor any identifying information that does not indicate involvement of the person in the criminal justice system.

Effective January 1, 2020.

(Adds R.S. 44:68 - 68.13)