
DIGEST

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HB 604 Re-Reengrossed

2021 Regular Session

James

Abstract: Provides for a comprehensive revision of expungement laws, including petition-based and government-initiated criminal record-clearing.

Present law provides for the expungement of records of arrest and misdemeanor and felony convictions in certain circumstances.

Proposed law provides for a comprehensive revision to present law provisions including the following major changes:

- (1) Provides for definitions for the following terms: arrest date, Case Management Information System, certificate of compliance, criminal repository, fingerprinted record of arrest, government-initiated expungement, non-fingerprinted record of arrest, petition-based expungement, sentence date, and sentence duration.
- (2) Provides for a petition-based expungement of a record of arrest that did not result in conviction.
- (3) Provides for a petition-based expungement of a record of arrest and conviction of a misdemeanor offense.
- (4) Provides for a petition-based expungement of a record of arrest and conviction of a felony offense.
- (5) Provides relative to the costs associated for a petition-based expungement of a record, and provides that a person shall not be charged any costs for a government-initiated expungement of records.
- (6) Amends certain present law forms to conform with proposed law changes.
- (7) Provides relative to the process for a government-initiated expungement of a fingerprinted record of arrest that did not result in a conviction.
- (8) Provides relative to the process for a government-initiated expungement of a fingerprinted record of arrest and conviction of misdemeanor and felony offenses.
- (9) Provides for a certificate of compliance and transmission confirming a government-initiated

expungement of a fingerprinted record.

- (10) Provides relative to the transmission of data to complete and serve a government-initiated fingerprinted and non-fingerprinted expungement.
- (11) Provides immunity for office of state police, La. Supreme Court, and clerks of court if records are not expunged pursuant to proposed law when necessary data did not exist in the criminal repository, CMIS, or the records of the clerk in order to execute the expungement.
- (12) Provides immunity for clerks of court if records are not expunged pursuant to present and proposed law if the expungement order or transmittal of data pursuant to proposed law does not specifically identify all locations of records to be expunged or if necessary data did not exist in the clerk's records.

Proposed law provides for certain effective dates of proposed law.

(Amends C.Cr.P. Arts. 971(7), 973(D) and (E), 974(B) and (C), 976, 977(A)(intro. para.) and (2), (B), and (C)(intro. para.) and (1), 978(A)(intro. para.) and (2), (B)(intro. para.), (C), and (E)(1), 979(section heading), 980(section heading), 981, 982(section heading), 983(I), 985, 985.1(C), 986(A), 987, and 992; Adds C.Cr.P. Arts. 971(8), 972(5) through (14), 976.1, 976.2, 977.1, 977.2, 978.1, 981.1, 981.2, 982.1, and 983(J); Repeals C.Cr.P. Arts. 978(B)(2)(b) and (E)(2), 984, and 996)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Change provisions regarding fingerprinted and non-fingerprinted arrest records for felony or misdemeanor offenses.
2. Remove provisions of proposed law regarding the transmission of data confirming government-initiated expungements.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Add provision granting immunity to clerks of court for records not expunged pursuant to proposed law when necessary data did not exist in the records of the clerk of court. Further provide remedies for a person seeking expungement in such circumstances.

The House Floor Amendments to the reengrossed bill:

1. Make technical changes.

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