

2022 Regular Session

HOUSE BILL NO. 707

BY REPRESENTATIVES DUPLESSIS, LYONS, AND MARCELLE

CRIMINAL/RECORDS: Provides relative to the expungement of criminal records

1 AN ACT

2 To enact Code of Criminal Procedure Article 985.2, relative to expungement of records; to
3 provide relative to automated expungement of certain criminal records; to require the
4 Louisiana Bureau of Criminal Identification and Information to send certain records
5 to the Louisiana Supreme Court Case Management Information System; to provide
6 relative to duties of the clerks of district courts; to authorize the adoption of rules and
7 regulations by state police and the supreme court; to provide that no person shall
8 have a cause of action resulting from the omission of their records for automated
9 expungement; to provide for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Criminal Procedure Article 985.2 is hereby enacted to read as
12 follows:

13 Art. 985.2. Automated expungement of qualifying records

14 A. The Louisiana Bureau of Criminal Identification and Information shall
15 identify within its criminal repository database all records with final dispositions for
16 individuals eligible for an expungement pursuant to the provisions of Articles 976,
17 977, and 978.

18 B. Beginning August 1, 2024, and every thirty days thereafter, the Louisiana
19 Bureau of Criminal Identification and Information shall send the records with final
20 dispositions for individuals eligible for an expungement pursuant to the provisions

1 of Articles 976, 977, and 978 to the Louisiana Supreme Court Case Management
2 Information System.

3 C. Within thirty days of receipt of records from the Louisiana Bureau of
4 Criminal Identification and Information, the Louisiana Supreme Court Case
5 Management Information System shall send notice by United States mail or
6 electronically of all records identified pursuant to Paragraph A of this Article to be
7 expunged by automation to the clerks of the district courts of Louisiana. The clerks
8 of the district courts of Louisiana shall verify and identify such records as expunged
9 by automation. If a clerk of a district court is unable to verify and identify any
10 record identified for automatic expungement, the clerk shall notify the Louisiana
11 Supreme Court Case Management Information System within thirty days of receipt
12 of the notice required pursuant to the provisions of this Paragraph, who shall then
13 notify the Louisiana Bureau of Criminal Identification and Information that the
14 record is not expunged by automation.

15 D. The clerks of the district courts of Louisiana shall send notice by United
16 States mail or electronically of all records expunged by automation to the district
17 attorney of the parish of the person's conviction, the sheriff of the parish of the
18 person's conviction, and the arresting agency. The sheriff and the arresting agency
19 shall upon receipt of such notice identify the records as expunged by automation,
20 according to Code of Criminal Procedure Article 973. The district attorney shall
21 acknowledge such records as expunged by automation. The clerks of the district
22 courts of Louisiana shall also send notice by United States mail or electronically of
23 all records expunged by automation to the Louisiana Supreme Court Case
24 Management Information System, which shall mark the records as expunged by
25 automation and send notice by United States mail or electronically of all records
26 expunged by automation to the Louisiana Bureau of Criminal Identification and
27 Information. The Louisiana Bureau of Criminal Identification and Information shall
28 mark the records as expunged by automation.

1 E. The Department of Public Safety and Corrections, office of state police,
2 is hereby authorized to adopt and promulgate rules and regulations in accordance
3 with the Administrative Procedure Act to carry out the provisions of this Article for
4 criminal records in districts courts of Louisiana which date back to January 1, 2000.

5 F. Nothing in this Article shall prevent an otherwise eligible individual from
6 obtaining an expungement pursuant to any provision in this Title. An individual
7 eligible for an automated expungement under this Article shall not have a cause of
8 action for any damages resulting from the omission of their records in the process
9 provided by this Article.

10 Section 2. The legislature hereby recognizes the judicial power vested in the state
11 supreme court pursuant to Article V, Section 1 of the Constitution of Louisiana and,
12 accordingly, urges and requests the supreme court to adopt rules to carry out the provisions
13 of this Act.

14 Section 3. The provisions of Sections 1 and 2 of this Act shall become effective if
15 an Act or Acts of the Legislature of Louisiana originating in the 2022 Regular Session
16 containing specific appropriations of monies for the office of state police and the Louisiana
17 Supreme Court for the implementation of the provisions of this Act becomes effective. If
18 such appropriations are made in a single Act, Sections 1 and 2 of this Act shall become
19 effective when the Act that made the appropriations becomes effective. If such
20 appropriations are made in different Acts, Sections 1 and 2 of this Act shall become effective
21 when the Act having the later effective date becomes effective.

22 Section 4. The provisions of this Section and Section 3 of this Act shall become
23 effective upon signature of this Act by the governor or, if not signed by the governor, upon
24 expiration of the time for bills to become law without signature by the governor, as provided
25 by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the
26 governor and subsequently approved by the legislature, the provisions of this Section and
27 Section 3 of this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 707 Reengrossed

2022 Regular Session

Duplessis

Abstract: Provides for automated expungement of certain qualifying criminal records.

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

Proposed law provides for automated expungement of qualifying records. Requires the La. Bureau of Criminal Identification and Information (bureau) to identify within its criminal repository database all records with final dispositions for individuals eligible for an expungement pursuant to the provisions of present law (C.Cr.P. Arts. 976, 977, and 978).

Proposed law provides that on Aug. 1, 2024, and every 30 days thereafter, the bureau shall send the records with final dispositions for individuals eligible for an expungement pursuant to present law to the La. Supreme Court Case Management Information System.

Proposed law requires the La. Supreme Court Case Management Information System, within 30 days of receipt of records from the bureau, to send notice by U.S. mail or electronically of all records expunged by automation to the clerks of the district courts. Requires the clerks to verify and identify such records as expunged by automation. Further provides that if a clerk is unable to verify and identify any record identified for automatic expungement pursuant to proposed law, the clerk must notify the La. Supreme Court Case Management Information System within 30 days of receipt of the original notice pursuant to proposed law. Further requires the Supreme Court to notify the La. Bureau of Criminal Identification and Information that the record has not been expunged by automation.

Proposed law requires the clerks of the district courts to send notice by U.S. mail or electronically of all records expunged by automation to the district attorney of the parish of the person's conviction, the sheriff of the parish of the person's conviction, and the arresting agency. Requires the sheriff and the arresting agency to identify such records as expunged by automation. Requires the district attorney to acknowledge that such records have been expunged by automation. Further requires the clerks of the district courts to send notice by U.S. mail or electronically of all records expunged by automation to the La. Supreme Court Case Management Information System, which shall mark the records as expunged and notify the bureau by U.S. mail or electronically of all such expunged records. Requires the bureau to mark such records as expunged by automation.

Proposed law authorizes the office of state police to adopt and promulgate rules and regulations to carry out the provisions of proposed law for criminal records in district courts which date back to Jan. 1, 2000. Further urges and requests the supreme court to adopt rules to carry out the provisions of proposed law.

Effective if an Act or Acts that originated in the 2022 Regular Session of the Legislature make specific appropriations to the office of state police and the La. Supreme Court for the implementation of proposed law. If such appropriations are contained in a single Act, proposed law becomes effective when the Act that made the appropriations becomes effective. If such appropriations are made in different Acts, proposed law becomes effective when the Act having the later effective date becomes effective.

(Adds C.Cr.P. Art. 985.2)

Summary of Amendments Adopted by House

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

1. Require the La. Supreme Court Case Management Information System to send notice by U.S. mail or electronically of all records identified pursuant to proposed law to be expunged to the clerks of the district courts.
2. Remove the requirement for the bureau to identify records as expunged by automation and require the clerks of the district courts to verify and identify such records.
3. Require the clerks of the district courts to also send notice by U.S. mail or electronically of all records expunged by automation to the La. Supreme Court Case Management and Information System and the bureau.
4. Require the La. Supreme Court Case Management and Information System and the bureau to identify records as expunged by automation.

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

1. Add provision requiring a clerk to take certain action when unable to verify and identify a record identified for automatic expungement.
2. Remove requirement that the district attorney identify records as expunged by automation.
3. Add requirement that the district attorney acknowledge records as expunged by automation.
4. Make technical changes.
5. Add provision urging and requesting the La. Supreme Court to adopt rules to carry out the provisions of proposed law.
6. Add provision making proposed law effective if and when an Act or Acts originating in the 2022 Regular Session of the legislature making specific appropriations to the office of state police and the La. Supreme Court for the implementation of proposed law becomes effective.