HLS 24RS-823 ENGROSSED

2024 Regular Session

HOUSE BILL NO. 553

1

BY REPRESENTATIVES BRYANT, KNOX, AND MOORE

CRIMINAL/RECORDS: Provides relative to the disposition of certain records for seventeen year old offenders

AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 972 and 983(G) and to enact 3 Code of Criminal Procedure Articles 999 and 1000, relative to expungement; to 4 provide for the expungement of arrest records for certain individuals; to provide for 5 a definition; to provide relative to criteria to receive an expungement; to provide for 6 exceptions; to provide for duties; to provide for exemption from processing fees; to 7 provide for an expungement form; and to provide for related matters. 8 Be it enacted by the Legislature of Louisiana: 9 Section 1. Code of Criminal Procedure Articles 972 and 983(G) are hereby amended 10 and reenacted and Code of Criminal Procedure Articles 999 and 1000 are hereby enacted to 11 read as follows: Art. 972. Definitions 12 As used in this Title: 13 14 (1) "Expedited expungement" means an order of expungement that a judge 15 may sign pursuant to Article 999 without the individual filing a motion to expunge 16 with the clerk of court. 17 (2) "Expunge a record" means to remove a record of arrest or conviction, 18 photographs, fingerprints, disposition, or any other information of any kind from 19 public access pursuant to the provisions of this Title. "Expunge a record" does not mean destruction of the record. 20

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(2)(3) "Expungement by redaction" provides for the expungement of records		
2	of a person who is arrested or convicted with other persons who are not entitled to		
3	expungement and involves the removal of the name or any other identifying		
4	information of the person entitled to the expungement and otherwise retains the		
5	records of the incident as they relate to the other persons.		
6	(3) (4) "Interim expungement" means to expunge a felony arrest from the		
7	criminal history of a person who was convicted of a misdemeanor offense arising out		
8	of the original felony arrest. Only the original felony arrest may be expunged in an		
9	interim expungement.		
10	(4) (5) "Records" includes any incident reports, photographs, fingerprints,		
11	disposition, or any other such information of any kind in relation to a single arrest		
12	event in the possession of the clerk of court, any criminal justice agency, and local		
13	and state law enforcement agencies but shall not include DNA records. Records		
14	shall also include records of an arrest based on a warrant or attachment for failure to		
15	appear in court for the same offense or offenses for which the person is seeking an		
16	expungement.		
17	* * *		
18	Art. 983. Costs of expungement of a record; fees; collection; exemptions;		
19	disbursements		
20	* * *		
21	G. Notwithstanding any other provision of law to the contrary, a the		
22	following individuals shall be exempt from the payment of the processing fees		
23	otherwise authorized by this Article:		
24	(1) A juvenile who has successfully completed any juvenile drug court		
25	program operated by a court of this state shall be exempt from payment of the		
26	processing fees otherwise authorized by this Article.		
27	(2) A person eligible for an expedited expungement pursuant to Article 999.		
28	* * *		

1	Art. 999. Expungement of arrest records for certain individuals		
2	A. A person shall be entitled to the expedited expungement of his arrest, at		
3	no cost to him, if he meets all of the following:		
4	(1) He is seventeen years of age when he is arrested or charged with any		
5	criminal offense as provided in Title 14 of the Louisiana Revised Statues of 1950.		
6	(2) The district attorney, for any reason, declined to prosecute all offenses		
7	arising out of that arrest, including the reason that the person successfully complete		
8	a pretrial diversion program.		
9	(3) Prosecution was instituted and such proceedings have been finally		
10	disposed of by dismissal, sustaining of a motion to quash, or acquittal.		
1	B. The provisions of this Article shall not apply to any misdemeanor or		
12	felony conviction arising from the incident of arrest or any arrest for a sex offense		
13	as defined in R.S. 15:541.		
14	C. The expedited expungement shall be served pursuant to the provisions of		
15	Article 982.		
16	Art. 1000. Order form to be used; expedited expungement		
17	JUDICIAL DISTRICT FOR THE PARISH OF		
18			
19	No.: Division: " "		
20	State of Louisiana		
21	<u>vs.</u>		
22			
23	ORDER OF EXPUNGEMENT UNDER		
24	CODE OF CRIMINAL PROCEDURE ARTICLE 999		
25	Pursuant to Code of Criminal Procedure Article 999, wherein all of the		
26	following applies,		
27	(1) The defendant was seventeen years of age when he was arrested or		
28	charged with any criminal offense as provided in Title 14 of the Louisiana Revised		
29	Statutes of 1950.		

1		(2) The district att	corney, for any reaso	n, declined to p	rosecute all offenses	
2	arisin	arising out of that arrest, including the reason that the person successfully completed				
3	a pret	a pretrial diversion program.				
4		(3) Prosecution v	was instituted and s	such proceeding	gs have been finally	
5	dispo	sed of by dismissal, s	sustaining of a motic	on to quash, or a	cquittal.	
6		IT IS HEREBY	ORDERED, ADJU	DGED, AND	DECREED that the	
7	follov	following charges and arrest on the dates provided herein be expunged upon the				
8	comp	completion of the information below.				
9		If there is an object	tion to the Motion fo	or Expungement	, the district attorney	
10		and the arresting la	w enforcement agen	cy shall file a mo	otion to object within	
11		sixty days of the se	ervice of this Order.			
12		If the Louisiana Bu	ureau of Criminal Id	lentification and	Information objects	
13		to the Motion for E	Expungement, they s	hall file a motio	n within 120 days of	
14		the service of this	order (prior to Aug	gust 1, 2015) an	nd within 60 days of	
15		service of this orde	er (after August 1, 20	<u>)15).</u>		
16		NO CONTRADI	CTORY HEARIN	NG SHALL B	E REQUIRED as	
17		evidenced by the '	'Affidavit of No Op	position" execu	uted by each agency	
18		named herein and	attached to the Motion	on for Expunger	nent.	
19		THUS ORDERED	D AND SIGNED, A	ADJUDGED, A	ND DECREED this	
20		day of	, 20	at	, Louisiana,	
21			<u>.</u>			
22						
23			<u>JUDGE</u>			
24	<u>DEFI</u>	ENDANT INFORM	ATION:			
25	NAM	E:				
26		<u>First</u>	Middle	<u>Last</u>		
27	DAT	E OF BIRTH:				
28	<u>GENI</u>	DER:	_			
29	SS#					

1	RACE	_
2	DRIVERS LICENSE#	
3	ARRESTING AGENCY	
4	SID#	
5	ARREST NUMBER (ATN)	
6	AGENCY ITEM NO:	

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 553 Engrossed

2024 Regular Session

Bryant

Abstract: Provides relative to the expungement of arrest records for certain offenders.

Present law (C.Cr.P. Art. 972) provides for definitions.

Proposed law retains present law and provides a definition for "expedited expungement".

Present law (C.Cr.P. Art. 983) provides for costs of expungements.

<u>Proposed law</u> retains <u>present law</u> generally and exempts a person who is eligible for an expedited expungement from the expungement fees provided in present law.

<u>Proposed law</u> (C.Cr.P. Art. 999) provides that a person shall be entitled to the expedited expungement of his arrest, at no cost to him, if he meets all of the following:

- (1) He is 17 years of age when he is arrested or charged with any criminal offense as provided in present law (Title 14 of the La. Rev. Statues of 1950).
- (2) The district attorney, for any reason, declined to prosecute all offenses arising out of that arrest, including the reason that the person successfully completed a pretrial diversion program.
- (3) Prosecution was instituted and such proceedings have been finally disposed of by dismissal, sustaining of a motion to quash, or acquittal.

<u>Proposed law</u> does not apply to any misdemeanor or felony conviction arising from the incident of arrest or any arrest for a sex offense as defined in present law (R.S. 15:541).

<u>Proposed law</u> provides that the expedited expungement shall be served pursuant to the provisions of <u>present law</u> (C.Cr.P. Art. 982).

Proposed law (C.Cr.P. Art. 1000) adds an expungement form for expedited expungements.

(Amends C.Cr.P. Arts. 972 and 983(G); Adds C.Cr.P. Arts. 999 and 1000)

Summary of Amendments Adopted by House

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

- 1. Make technical changes.
- 2. Define the term "expedited expungement".
- 3. Exempt a person who is eligible for an expedited expungement from the expungement fees provided in present law.
- 4. Change the term "automatic expungement" to "expedited expungement".
- 5. Removes <u>proposed law</u> criteria for an expedited expungement relative to the dismissal or entry of nolle prosequi of a charge forming the basis of an arrest.
- 6. Add the following eligibility criteria for an expedited expungement:
 - (a) The district attorney, for any reason, declined to prosecute all offenses arising out of that arrest, including the reason that the person successfully completed a pretrial diversion program.
 - (b) Prosecution was instituted and such proceedings have been finally disposed of by dismissal, sustaining of a motion to quash, or acquittal.
- 7. Clarify that a person is not eligible for an expedited expungement if any misdemeanor or felony conviction arises from the incident of his arrest or if he is arrested for any sex offense.
- 8. Clarify that the expedited expungement shall be served pursuant to the provisions of <u>present law</u>.
- 9. Add an expungement form for expedited expungements.