HLS 24RS-823 REENGROSSED

2024 Regular Session

HOUSE BILL NO. 553

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BY REPRESENTATIVES BRYANT, BOYD, CARPENTER, WILFORD CARTER, CHASSION, FISHER, GREEN, JACKSON, TRAVIS JOHNSON, KNOX, LAFLEUR, MARCELLE, MENA, MOORE, NEWELL, SELDERS, TAYLOR, AND WALTERS

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 999.1, 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 and reenacted and Code of Criminal Procedure Articles 999 and 999.1 are hereby enacted 10 11 to 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 public access pursuant to the provisions of this Title. "Expunge a record" does not 19 20 mean destruction of the record.

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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	* * *

(2)(3) "Expungement by redaction" provides for the expungement of records

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 or 40 of the Louisiana Revised Statues of
6	<u>1950.</u>
7	(2) The district attorney, for any reason, declined to prosecute all offenses
8	arising out of that arrest, including the reason that the person successfully completed
9	a pretrial diversion program.
10	(3) Prosecution was instituted and such proceedings have been finally
1	disposed of by dismissal, sustaining of a motion to quash, or acquittal.
12	B. The provisions of this Article shall not apply to any misdemeanor or
13	felony conviction arising from the incident of arrest.
14	C. The expedited expungement shall be served pursuant to the provisions of
15	Article 982.
16	Art. 999.1. 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 or 40 of the Louisiana
29	Revised Statutes of 1950.

1	(2) The district attorney, for any reason, declined to prosecute all offenses							
2	arising out of that arrest, including the reason that the person successfully completed							
3	a pretrial diversion program.							
4	(3) Prosecution was instituted and such proceedings have been finally							
5	disposed of by dismissal, sustaining of a motion to quash, or acquittal.							
6	IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the							
7	following charges and arrest on	following charges and arrest on the dates provided herein be expunged.						
8	THUS ORDERED AN	D SIGNED, A	ADJUDGED, AN	ND DECREED this				
9	day of	, 20	at	, Louisiana,				
10		<u>.</u>						
11								
12		<u>JUDGE</u>						
13	DEFENDANT INFORMATION	ON:						
14	NAME:							
15	<u>First</u>	Middle	<u>Last</u>					
16	DATE OF BIRTH:							
17	GENDER:							
18	<u>SS#</u>							
19	RACE							
20	DRIVERS LICENSE#		_					
21	ARRESTING AGENCY							
22	SID#							
23	ARREST NUMBER (ATN)							
24	AGENCY ITEM NO:							
25	PLEASE SERVE:							
26	1. District Attorney:							
27	2. Arresting Agency:							
28	3. Parish Sheriff:							

1	<u>4.</u>	Louisiana	Bureau	of	Criminal	Identification	and	Information
2					_			
3	<u>5</u>	Attorney for I	Defendant (or de	fendant)			
4	6. (Clerk of Cour	t					

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 Reengrossed

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.

<u>Proposed law</u> retains <u>present law</u> 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 <u>present law</u>.

<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 or 40 of the La. Rev. Statutes 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.

<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).

<u>Proposed law</u> (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 999.1)

Summary of Amendments Adopted by House

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

1. Make technical changes.

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- 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. Remove <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 present law.
- 9. Add an expungement form for expedited expungements.

The House Floor Amendments to the engrossed bill:

- 1. Make technical changes.
- 2. Add that a person who is 17 years of age when he is arrested or charged with any criminal offense as provided in Title 40 of the La. Rev. Statutes of 1950 shall be entitled to the expedited expungement of his arrest, at no cost to him, if he meets all of the applicable criteria.
- 3. Make expungements pursuant to <u>proposed law</u> applicable to an arrest for a sex offense as defined in present law (R.S. 15:541).
- 4. Relative to the expungement form for expedited expungements, remove <u>proposed</u> <u>law</u> relative to the following:
 - (a) Objection to the Motion for Expungement.
 - (b) The applicability of a contradictory hearing.
- 5. Relative to the expungement form for expedited expungements, provide that service shall be made on the following:
 - (a) The district attorney.
 - (b) The arresting agency.
 - (c) The parish sheriff.
 - (d) The La. Bureau of Criminal Identification and Information.

(e) The attorney for the defendant (or the defendant).

(f) The clerk of court.