

Regular Session, 2012

HOUSE BILL NO. 763

BY REPRESENTATIVE ST. GERMAIN

1 AN ACT

2 To amend and reenact R.S. 13:917(A) and (C), 1221(A), 1903(A), 1904(A) and (C) through
3 (E), 1904.1, and 2562.26(A) and R.S. 44:40(E) and to repeal R.S. 44:40(F) and 427,
4 relative to records in the custody of a clerk of court; to provide for the destruction
5 of such records in certain circumstances; to provide for retention in certain
6 circumstances and in certain formats; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 13:917(A) and (C), 1221(A), 1903(A), 1904(A) and (C) through (E),
9 1904.1, and 2562.26(A) are hereby amended and reenacted to read as follows:

10 §917. Destruction of useless records

11 A. The clerk of court may upon consent of the judge, or of the majority of
12 judges in districts with several divisions, destroy records of any of the following
13 judicial proceedings when such records have been deemed by the presiding judge or
14 judges to have no further use or value: suits on open accounts, tort suits, ~~worker's~~
15 workers' compensation suits, suits on unsecured notes, suits on promissory notes,
16 suits on chattel mortgages, and suits for eviction of tenants and occupants. However,
17 such proposed destruction shall ~~only be authorized~~ be authorized only when ten years
18 have elapsed from the last date of action on said record or records and authorization
19 for such destruction has been obtained from the state archivist in accordance with
20 R.S. 44:411.

21 * * *

22 C. The clerk of court for a district court may destroy parts of records of any
23 of the following judicial proceedings after the lapse of five years from the date of the

1 final dismissal of the proceeding if authorization has been obtained from the state
 2 archivist as provided in R.S. 44:411: suits on open accounts, tort suits, worker's
 3 compensation suits, suits on unsecured notes, suits on promissory notes, and suits for
 4 the eviction of tenants and occupants. The parts of records to be destroyed under this
 5 Subsection shall be limited to depositions, subpoenas and subpoenas duces tecum,
 6 returns on subpoenas and subpoenas duces tecum, medical records, and X-rays. No
 7 cause of action shall exist against any clerk of court or his employee for the
 8 destruction of records in accordance with this Subsection.

9 * * *

10 §1221. Destruction of useless records

11 A. The clerk of court may upon consent of the majority of the judges and
 12 with authorization from the state archivist as provided in R.S. 44:411 destroy records
 13 of any of the following judicial proceedings when such records have been deemed
 14 by the majority of judges to have no further use or value: suits on open accounts, tort
 15 suits, worker's compensation suits, suits on unsecured notes, suits on promissory
 16 notes, and suits on chattel mortgages.

17 * * *

18 §1903. Destruction of audio and video recordings

19 A. The clerk of court may, upon consent of the judge who presided over the
 20 case, or a majority of the judges of the court sitting en banc and with authorization
 21 from the state archivist as provided in R.S. 44:411, cause electronically taped
 22 proceedings, both audio and video, in civil, criminal, traffic, and juvenile cases to be
 23 erased when such records have been deemed to have no further use or value.

24 * * *

25 §1904. City courts; destruction of useless records; certain courts

26 A. The clerk of court may, upon consent of the judge or of the majority of
 27 judges in jurisdictions with several divisions and with authorization from the state
 28 archivist as provided in R.S. 44:411, destroy records of any of the following judicial

1 proceedings when such records have been deemed by the presiding judge or judges
 2 to have no further use or value: suits on open accounts, tort suits, suits on unsecured
 3 notes, suits on promissory notes, suits on chattel mortgages, and suits for eviction of
 4 tenants and occupants. However, such proposed destruction shall ~~only be authorized~~
 5 be authorized only ~~where~~ when ten years have elapsed from the last date of action
 6 on the record or records.

7 * * *

8 C. Notwithstanding the provisions of Subsection A to the contrary, the clerk
 9 of the City Court of Houma, the clerk of the City Court of Ruston, and the clerk of
 10 the City Court of Lake Charles may, upon consent of the judge or of the majority of
 11 judges; if there is more than one city judge and with authorization from the state
 12 archivist as provided in R.S. 44:411, destroy records of judicial proceedings
 13 involving suits for eviction of tenants and occupants when such records have been
 14 deemed by the presiding judge or judges to have no further use or value. However,
 15 such proposed destruction shall be authorized only when two years have elapsed
 16 from the last date of action on the record or records when the suit is not appealed or
 17 two years have elapsed after all appeals are exhausted.

18 D. The clerk of the City Court of Houma, the clerk of the City Court of
 19 Ruston, and the clerk of the City Court of Lake Charles may, upon consent of the
 20 judge or of the majority of judges; if there is more than one city judge and with
 21 authorization from the state archivist as provided in R.S. 44:411, destroy records of
 22 criminal proceedings involving misdemeanor convictions when such records have
 23 been deemed by the presiding judge or judges to have no further use or value.
 24 However, such proposed destruction shall be authorized only when ten years have
 25 elapsed from the date of the judgment of conviction when the conviction is not
 26 appealed or two years have elapsed after all appeals are exhausted. The provisions
 27 of this Subsection shall not apply to a conviction for operating a vehicle while
 28 intoxicated.

29 E. The destruction of criminal records authorized by Subsection D of this
 30 Section; may ~~only be destroyed~~ occur only after the clerk of court's office has

1 scanned the records ~~onto an optical disc for storage~~ and stored them in an electronic
 2 format that is in compliance with all rules adopted by the Department of State
 3 relative to retention and storage of records.

4 §1904.1. City courts; destruction of useless records; City Court of Baton Rouge

5 A. Notwithstanding the provisions of R.S. 13:1904(A) and (B) and R.S.
 6 44:36(A) to the contrary, the clerk of the City Court of Baton Rouge may, upon
 7 consent of a majority of judges and with authorization from the state archivist as
 8 provided in R.S. 44:411, destroy records of judicial proceedings involving suits for
 9 eviction of tenants and occupants when such records have been deemed by the
 10 presiding judge or judges to have no further use or value. However, such proposed
 11 destruction shall ~~only be authorized where~~ be authorized only when two years have
 12 elapsed from the last date of action on the record or records when the suit is not
 13 appealed or two years have elapsed after all appeals are exhausted.

14 B. The clerk of the City Court of Baton Rouge may, upon consent of a
 15 majority of judges and with authorization from the state archivist as provided in R.S.
 16 44:411, destroy records of criminal proceedings involving misdemeanor convictions
 17 when such records have been deemed by the presiding judge or judges to have no
 18 further use or value. However, such proposed destruction shall ~~only be authorized~~
 19 be authorized only where when ten years have elapsed from the date of the judgment
 20 of conviction when the conviction is not appealed or two years have elapsed after all
 21 appeals are exhausted. The provisions of this Subsection shall not apply to a
 22 conviction for operating a vehicle while intoxicated.

23 C. The destruction of criminal records authorized by Subsection B of this
 24 Section may occur only after the clerk of court's office has scanned the records ~~onto~~
 25 ~~an optical disc for storage~~ and stored them in an electronic format that is in
 26 compliance with all rules adopted by the Department of State relative to retention
 27 and storage of records.

28 * * *

1 §2562.26. Parish courts; Jefferson Parish; destruction of useless records

2 A. The clerk of court may, upon consent of the judge or of the majority of
3 judges in the jurisdictions with several divisions and with authorization from the
4 state archivist as provided in R.S. 44:411, destroy records of any of the following
5 judicial proceedings when such records have been deemed by the presiding judge or
6 judges to have no further use or value: suits on open accounts, tort suits, suits on
7 unsecured notes, suits on promissory notes, suits on chattel mortgages, and suits for
8 eviction of tenants and occupants. However, such proposed destruction shall ~~only~~
9 be authorized only when ten years have elapsed from the last date of action on the
10 record or records.

11 * * *

12 Section 2. R.S. 44:40(E) is hereby amended and reenacted to read as follows:

13 §40. Additional copies of records by microphotographic process; purchase of
14 equipment; funds available for payment; copies of suit records

15 * * *

16 E. The several clerks of court, including the clerks of the Criminal or Civil
17 District Courts for the parish of Orleans, shall make and retain in their custody, by
18 means of the microphotographic process, a copy of all original criminal and civil
19 records of every nature and kind, which are deemed permanent under a record
20 retention and disposal schedule adopted by the secretary of state and the clerks of
21 court in accordance with R.S. 44:410 and 411, ~~and which have been in their custody~~
22 ~~for a period of five or more years~~. The clerks of court may then destroy the original
23 criminal records and any other records, the destruction of which is authorized by R.S.
24 13:917, which have been so copied and retained. However, all records in suits
25 affecting records relating to immovable property, or adoption, interdiction,
26 successions, trusts, or emancipation; created prior to 1922 shall be retained in their
27 original form, ~~even though they have been copied as provided herein~~.

28 Section 3. R.S. 44:40(F) and 427 are hereby repealed in their entirety.

29 Section 4. This Act shall become effective upon signature by the governor or, if not
30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____