

Regular Session, 2012

SENATE BILL NO. 213

BY SENATOR BROWN

CRIMINAL RECORDS. Adds the La. Department of Insurance as an entity which is allowed to receive expunged records. (8/1/12)

1 AN ACT

2 To amend and reenact R.S. 44:9(F) and (G), relative to criminal arrest and disposition
3 records; to authorize the Louisiana Department of Public Safety and Corrections to
4 provide the Louisiana Department of Insurance access to criminal arrest and
5 disposition records; to provide that the Louisiana Department of Insurance may use
6 criminal arrest and disposition records which have been expunged; and to provide
7 for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 44:9(F) and (G) are hereby amended and reenacted to read as
10 follows:

11 §9. Records of violations of municipal ordinances and of state statutes classified as
12 a misdemeanor or felony

13 * * *

14 F. For investigative purposes only, the Department of Public Safety and
15 Corrections may maintain a confidential, nonpublic record of the arrest and
16 disposition. Upon specific request therefor and on a confidential basis, the
17 information contained in this record may be released to the following entities who

1 shall maintain the confidentiality of such record: any law enforcement agency,
 2 criminal justice agency, the Louisiana State Board of Medical Examiners, the
 3 Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the
 4 Louisiana State Board of Examiners of Psychologists, the Louisiana State Board of
 5 Social Work Examiners, the Emergency Medical Services Certification Commission,
 6 the Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, the
 7 Louisiana Supreme Court Committee on Bar Admissions, **the Louisiana**
 8 **Department of Insurance**, or any person or entity requesting a record of all criminal
 9 arrests and convictions pursuant to R.S. 15:587.1.

10 G. "Expungement" means removal of a record from public access but does
 11 not mean destruction of the record. An expunged record is confidential, but remains
 12 available for use by law enforcement agencies, criminal justice agencies, the
 13 Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing,
 14 the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of
 15 Psychologists, the Louisiana State Board of Social Work Examiners, the Emergency
 16 Medical Services Certification Commission, the Louisiana Attorney Disciplinary
 17 Board, Office of Disciplinary Counsel, the Louisiana Supreme Court Committee on
 18 Bar Admissions, **the Louisiana Department of Insurance**, or any person or entity
 19 requesting a record of all criminal arrests and convictions pursuant to R.S. 15:587.1.

20 * * *

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Cathy Wells.

DIGEST

Brown (SB 213)

Present law authorizes any person who has been arrested for a misdemeanor or felony offense to request that the arrest record be expunged if the time limitation for prosecution of the offense has expired and no prosecution has been instituted, if prosecution has been instituted and the proceedings have been finally disposed of by dismissal, if a motion to quash has been sustained, or if the person has been acquitted. Present law also authorized an "Article 893" or "Article 894" expungement. Further provides that if the court finds that such person is entitled to an expungement of his record, it shall order all records of such arrest and disposition be destroyed and that any custodian of such records file a sworn affidavit to the effect that the destruction has taken place; however, present law prohibits expungement or destruction of sex offenses or DWI convictions.

Notwithstanding the above present law on the expungement and destruction of records, present law also provides that the DPS&C may maintain a confidential, nonpublic record of such arrest and disposition. This information may be released, confidentially, for use by the following organizations:

- (1) Law Enforcement Agencies and Criminal Justice Agencies.
- (2) The Louisiana State Board of Medical Examiners.
- (3) The Louisiana State Board of Nursing.
- (4) The Louisiana State Board of Examiners of Psychologists.
- (5) The Emergency Medical Services Certification Commission.
- (6) Louisiana Attorney Disciplinary Board Office of Disciplinary Counsel.
- (7) The Louisiana Supreme Court Committee on Bar Admissions.

Proposed law adds the Louisiana Department of Insurance to the list of those organizations authorized to receive and use these confidential, nonpublic records of arrest.

Effective August 1, 2012.

(Amends R.S. 44:9(F) and (G))