

Regular Session, 2010

SENATE BILL NO. 406

BY SENATOR MCPHERSON

CRIMINAL RECORDS. Amends provisions regarding criminal background checks.
(8/15/10)

1 AN ACT

2 To amend and reenact R.S. 15:587.1(B) and R.S. 44.9(F), (G) and (I), and to enact R.S.
3 15:587(A)(1)(f), relative to criminal records; to provide for criminal background
4 checks; to provide for certain entities' access to expunged records; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:587.1(B) is hereby amended and reenacted and R.S.
8 15:587(A)(1)(f) is hereby enacted to read as follows:

9 §587. Duty to provide information; processing fees; Louisiana Bureau of Criminal

10 Identification and Information

11 A.(1) * * *

12 **(f) If the request for information and records is made to the bureau by**
13 **eligible criminal justice agencies, the office of the attorney general, or the**
14 **various district attorneys' offices of the State of Louisiana, the bureau shall**
15 **include in its report any information concerning arrests and convictions of an**
16 **individual, including convictions in which a judgment of dismissal of the**
17 **prosecution was granted under the provisions of Article 893 and 894 of the**

1 disposition. ~~The information contained in this record may be released, upon~~ **Upon**
 2 specific request therefor and on a confidential basis, **the information contained in**
 3 **this record may be released to the following entities who shall maintain the**
 4 **confidentiality of such record:** ~~to~~ any law enforcement agency, criminal justice
 5 agency, **the office of the attorney general, the various district attorneys' offices**
 6 **of the state of Louisiana,** the Louisiana State Board of Medical Examiners, the
 7 Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the
 8 Louisiana State Board of Examiners of Psychologists, the Emergency Medical
 9 Services Certification Commission, Louisiana Attorney Disciplinary Board, Office
 10 of Disciplinary Counsel, or the Louisiana Supreme Court Committee on Bar
 11 Admissions, **or any person requesting a record of all criminal arrests and**
 12 **convictions pursuant to R.S. 15:587.1.** ~~The receiving law enforcement agency,~~
 13 ~~criminal justice agency, the Louisiana State Board of Medical Examiners, the~~
 14 ~~Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the~~
 15 ~~Louisiana State Board of Examiners of Psychologists, the Emergency Medical~~
 16 ~~Services Certification Commission, the Louisiana Attorney Disciplinary Board,~~
 17 ~~Office of Disciplinary Counsel, or the Louisiana Supreme Court Committee on Bar~~
 18 ~~Admissions shall maintain the confidentiality of such record.~~

19 G. "Expungement" means removal of a record from public access but does
 20 not mean destruction of the record. An expunged record is confidential, but remains
 21 available for use by law enforcement agencies, criminal justice agencies, **the office**
 22 **of the attorney general, the various district attorneys' offices of the state of**
 23 **Louisiana,** the Louisiana State Board of Medical Examiners, the Louisiana State
 24 Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board
 25 of Examiners of Psychologists, the Emergency Medical Services Certification
 26 Commission, the Louisiana Attorney Disciplinary Board, Office of Disciplinary
 27 Counsel, or the Louisiana Supreme Court Committee on Bar Admissions, **or any**
 28 **person requesting a record of all criminal arrests and convictions pursuant to**
 29 **R.S. 15:587.1.**

* * *

I. Except to those ~~agencies~~ entities listed in Subsection G of this Section, no person whose record of arrest and conviction has been expunged pursuant to the provisions of this Section shall be required to disclose that he was arrested or convicted for the subject offense or that the record of the arrest and conviction has been expunged, unless otherwise provided in this Section.

* * *

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

DIGEST

Present law provides that the Louisiana Bureau of Criminal Identification and Information ("bureau") shall make available certain information to enumerated entities as provided by law.

Proposed law provides that as authorized by law, if the bureau receives a request for information and records from eligible criminal justice agencies, the office of the attorney general, the various district attorneys' offices of the state, school boards, and the Department of Social Services, the bureau shall include in its report any information concerning arrests and convictions of an individual, including convictions in which a judgment of dismissal of the prosecution was granted under certain provides of the code of criminal procedure.

Present law provides that the following list of entities to whom a person must disclose an arrest or conviction which has been expunged, and to whom access to these expunged records has been granted: law enforcement agencies, criminal justice agencies, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Emergency Medical Services Certification Commission, the Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, or the Louisiana Supreme Court Committee on Bar Admissions.

Proposed law retains present law and adds the following to the list of entities who have access to expunged records and whom a person must disclose an arrest or conviction which has been expunged:

- (1) The office of the attorney general.
- (2) The various district attorney's offices of the state of Louisiana.
- (3) Any person requesting a record of all criminal arrests and convictions pursuant to law regarding the provision of information to protect children.

Effective August 15, 2010.

(Amends R.S. 15:587.1(B) and R.S. 44:9(F), (G) and (I); Adds R.S. 15:587(A)(1)(f))