SLS 10RS-335 ENGROSSED

Regular Session, 2010

1

SENATE BILL NO. 406

BY SENATOR MCPHERSON

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

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	Louisiana Code of Criminal Procedure, and said information shall be included
2	regardless of the entry of a judgment of expungement under R.S. 44:9 or any
3	similar expungement statute.
4	* * *
5	§587.1. Provision of information to protect children
6	* * *
7	B. Upon receiving a request pursuant to the provisions of R.S. 17:15, and
8	R.S. 46:51.2 when authorized by R.S. 15:587, that meets the requirements of
9	Subsection A of this Section, the bureau of criminal identification and information
10	shall survey its criminal history records and identification files and make a
11	simultaneous request of the Federal Bureau of Investigation for like information
12	from other jurisdictions. The bureau of criminal identification and information shall
13	provide a report promptly and in writing, but provide only such information as is
14	necessary to specify whether or not that person has been arrested for or convicted of
15	or pled nolo contendere to any crime or crimes, the crime or crimes of which he has
16	been arrested for or convicted or to which he has pled nolo contendere, and the date
17	or dates on which they occurred. The report provided under this Subsection shall
18	include arrests, convictions, or other dispositions, including convictions
19	dismissed under Code of Criminal Procedure Articles 893 and 894,
20	notwithstanding the entry of any judgment of expungement under R.S. 44:9 or
21	any similar expungement statute.
22	* * *
23	Section 2. R.S. 44:9(F), (G) and (I) are hereby amended and reenacted to read as
24	follows:
25	§9. Records of violations of municipal ordinances and of state statutes classified as
26	a misdemeanor or felony
27	* * *
28	F. For investigative purposes only, the Department of Public Safety and

Corrections may maintain a confidential, nonpublic record of the arrest and

29

26

27

28

29

disposition. The information contained in this record may be released, upon Upon specific request therefor and on a confidential basis, the information contained in this record may be released to the following entities who shall maintain the confidentiality of such record: to any law enforcement agency, criminal justice agency, the office of the attorney general, the various district attorneys' offices of the state of Louisiana, 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, Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, or the Louisiana Supreme Court Committee on Bar Admissions, or any person requesting a record of all criminal arrests and convictions pursuant to R.S. 15:587.1. The receiving law enforcement agency, criminal justice agency, 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 shall maintain the confidentiality of such record.

G. "Expungement" means removal of a record from public access but does not mean destruction of the record. An expunged record is confidential, but remains available for use by law enforcement agencies, criminal justice agencies, the office of the attorney general, the various district attorneys' offices of the state of Louisiana, 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, or any person requesting a record of all criminal arrests and convictions pursuant to R.S. 15:587.1.

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

McPherson (SB 406)

2

3

4

5

6

7

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

<u>Proposed law</u> 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 provisions of the code of criminal procedure.

<u>Present law</u> 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.

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