HB 707 Re-Reengrossed   2022 Regular Session   Duplessis

Abstract: Provides for automated expungement of certain qualifying criminal records.

Present law provides for the expungement of records of arrest and misdemeanor and felony convictions in certain circumstances.

Proposed law provides for automated expungement of qualifying records. Requires the La. Bureau of Criminal Identification and Information (bureau) to identify within its criminal repository database all records with final dispositions for individuals eligible for an expungement pursuant to the provisions of present law (C.Cr.P. Arts. 976, 977, and 978).

Proposed law provides that on Aug. 1, 2024, and every 30 days thereafter, the bureau shall send the records with final dispositions for individuals eligible for an expungement pursuant to present law to the La. Supreme Court Case Management Information System.

Proposed law requires the La. Supreme Court Case Management Information System, within 30 days of receipt of records from the bureau, to send notice by U.S. mail or electronically of all records expunged by automation to the clerks of the district courts. Requires the clerks to verify and identify such records as expunged by automation. Further provides that if a clerk is unable to verify and identify any record identified for automatic expungement pursuant to proposed law, the clerk must notify the La. Supreme Court Case Management Information System within 30 days of receipt of the original notice pursuant to proposed law. Further requires the Supreme Court to notify the La. Bureau of Criminal Identification and Information that the record has not been expunged by automation.

Proposed law requires the clerks of the district courts to send notice by U.S. mail or electronically of all records expunged by automation to the district attorney of the parish of the person's conviction, the sheriff of the parish of the person's conviction, and the arresting agency. Requires the district attorney, sheriff, and arresting agency to acknowledge that such records have been expunged by automation pursuant to present law (C.Cr.P. Art. 973). Further requires the clerks of the district courts to send notice by U.S. mail or electronically of all records expunged by automation to the La. Supreme Court Case Management Information System, which shall mark the records as expunged and notify the bureau by U.S. mail or electronically of all such expunged records. Requires the bureau to mark such records as expunged by automation.

Provides that proposed law shall not be construed to require the arresting agency, booking agency, or the district attorney to manually segregate or sequester upon acknowledging or identifying such

records.

Proposed law authorizes the office of state police to adopt and promulgate rules and regulations to carry out the provisions of proposed law for criminal records in district courts which date back to Jan. 1, 2000. Further urges and requests the supreme court to adopt rules to carry out the provisions of proposed law.

Present law (C.Cr.P. Art. 973(E)) provides that present law shall not be construed to limit or impair in any way the subsequent use of any expunged record of any arrests or convictions by a law enforcement agency, criminal justice agency, or prosecutor including its use as a predicate offense, for the purpose of the Habitual Offender Law, or as otherwise authorized by law.

Proposed law amends present law to include that the effect of an expunged record shall not be construed to limit or impair the subsequent use of any expunged record of any arrests or convictions by a judge, magistrate, or commissioner for the purpose of setting bail or sentencing.

Require the legislature, no later than June 30, 2024, to appropriate funding necessary for the implementation of proposed law to the La. Commission on Law Enforcement for distribution to each sheriff in the state in proportion to the number of automatic expungements submitted to the sheriff by the clerks of court pursuant to proposed law.

Effective if an Act or Acts that originated in the 2022 R.S. of the Legislature make specific appropriations to the office of state police, the La. Supreme Court, and the La. Clerks' Remote Access Authority for the implementation of proposed law. If such appropriations are contained in a single Act, proposed law becomes effective when the Act that made the appropriations becomes effective. If such appropriations are made in different Acts, proposed law becomes effective when the Act having the later effective date becomes effective.

(Amends C.Cr.P. Art. 973(E); Adds C.Cr.P. Art. 985.2)

Summary of Amendments Adopted by House

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

1.   Require the La. Supreme Court Case Management Information System to send notice by U.S. mail or electronically of all records identified pursuant to proposed law to be expunged to the clerks of the district courts.

2.   Remove the requirement for the bureau to identify records as expunged by automation and require the clerks of the district courts to verify and identify such records.

3.   Require the clerks of the district courts to also send notice by U.S. mail or electronically

of all records expunged by automation to the La. Supreme Court Case Management and Information System and the bureau.

4. Require the La. Supreme Court Case Management and Information System and the bureau to identify records as expunged by automation.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Add provision requiring a clerk to take certain action when unable to verify and identify a record identified for automatic expungement.

2. Remove requirement that the district attorney identify records as expunged by automation.

3. Add requirement that the district attorney acknowledge records as expunged by automation.

4. Make technical changes.

5. Add provision urging and requesting the La. Supreme Court to adopt rules to carry out the provisions of proposed law.

6. Add provision making proposed law effective if and when an Act or Acts originating in the 2022 Regular Session of the legislature making specific appropriations to the office of state police and the La. Supreme Court for the implementation of proposed law becomes effective.

The House Floor Amendments to the reengrossed bill:

1. Require the legislature to appropriate funding necessary for the implementation of proposed law to the La. Commission on Law Enforcement for distribution to each sheriff in the state in proportion to the number of automatic expungements submitted to the sheriff by the clerks of court.

2. Provide that proposed law becomes effective if an Act or Acts of the Legislature originating in the 2022 R.S. contains an appropriation for the La. Clerks' Remote Access Authority.

3. Remove proposed law which required the sheriff and arresting agency to identify the records as expunged by automation.

4. Require the district attorney, sheriff, and arresting agency to acknowledge certain records as expunged by automation.

5.	Amend present law (C.Cr.P. Art. 973(E)) to provide that the effect of an expunged record of arrest or conviction shall not limit or impair the subsequent use of any expunged record of any arrests or convictions by a judge, magistrate, or commissioner for the purpose of setting bail or sentencing.

6.	Provide that proposed law does not require the arresting agency, booking agency, or the district attorney to manually segregate or sequester upon acknowledging or identifying certain records.