

2016 Regular Session

HOUSE BILL NO. 518

BY REPRESENTATIVE BROADWATER

BOARDS/COMMISSIONS: Provides relative to information concerning the fitness of a person to be certified by the Board of Examiners of Certified Shorthand Reporters

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 973(B) and to enact R.S.
3 44:4(51), relative to information regarding the fitness of a person to receive or to
4 continue to hold a certificate issued by the Board of Examiners of Certified
5 Shorthand Reporters; to authorize the board to obtain information in expunged
6 records; to exempt from the Public Records Law certain records of the board
7 concerning the fitness of a person to receive or to continue to hold a certificate; and
8 to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Criminal Procedure Article 973(B) is hereby amended and
11 reenacted to read as follows:

12 Art. 973. Effect of expunged record of arrest or conviction

13 * * *

14 B. Upon written request therefor and on a confidential basis, the information
15 contained in an expunged record may be released to the following entities that shall
16 maintain the confidentiality of such record: the Office of Financial Institutions, the
17 Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing,
18 the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of
19 Psychologists, the Louisiana Board of Pharmacy, the Louisiana State Board of Social
20 Work Examiners, the Emergency Medical Services Certification Commission,

1 Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, the
2 Louisiana Supreme Court Committee on Bar Admissions, the Louisiana Department
3 of Insurance, the Louisiana Licensed Professional Counselors Board of Examiners,
4 Board of Examiners of Certified Shorthand Reporters, or any person or entity
5 requesting a record of all criminal arrests and convictions pursuant to R.S. 15:587.1,
6 or as otherwise provided by law.

7 * * *

8 Section 2. R.S. 44:4(51) is hereby enacted to read as follows:

9 §4. Applicability

10 This Chapter shall not apply:

11 * * *

12 (51) To any records, writings, accounts, recordings, letters, exhibits, pictures,
13 drawings, charts, photographs, memoranda, reports, examinations, or evaluations,
14 or copies thereof, concerning the fitness of any person to receive or continue to hold
15 a certificate issued pursuant to Chapter 32 of Title 37 of the Louisiana Revised
16 Statutes of 1950 in the custody or control of the Board of Examiners of Certified
17 Shorthand Reporters. However, any such information may be released to the public
18 in an administrative proceeding before the board, any final determination made by
19 the board, and any legal grounds upon which such action is based, relative to the
20 fitness of any person to receive or to continue to hold a certificate issued pursuant
21 to Chapter 32 of Title 37 of the Louisiana Revised Statutes of 1950 shall be a public
22 record.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 518 Original 2016 Regular Session Broadwater

Abstract: Authorizes the Bd. of Examiners of Certified Shorthand Reporters, upon written request and on a confidential basis, to obtain information in an expunged record and adds an exception to the Public Records Law for certain information in the custody or control of the board concerning a person's fitness to be certified by the board .

Present law (C.Cr.P. Art. 973) provides for the confidentiality of expunged records of arrests or convictions, but provides that such records are available to law enforcement agencies, criminal justice agencies, and prosecutors for specified reasons, the person whose records was expunged or his counsel, and for or pursuant to specified court proceedings. Further provides that the information in an expunged record may be released upon written request and on a confidential basis to specified regulatory and licensing agencies.

Proposed law adds the Bd. of Examiners of Certified Shorthand Reporters to the list of regulatory and licensing agencies able to receive such information upon written request and on a confidential basis.

Present law (R.S. 44:1, et. seq. – Public Records Law) provides that all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state are "public records". Present law establishes a framework for the ready availability of public records to requesting persons and specifically provides that it is the duty of the custodian of the public records of a public entity or agency to provide copies to persons so requesting. Provides for certain exceptions, exemptions, and limitations.

Proposed law adds an exception to the Public Records Law covering records, writings, accounts, recordings, letters, exhibits, pictures, drawings, charts, photographs, memoranda, reports, examinations, or evaluations, or copies thereof, concerning the fitness of a person to receive or continue to hold a certificate issued pursuant to present law relative to certified shorthand reporters that is in the custody or control of the Bd. of Examiners of Certified Shorthand Reporters. Provides however, that any such information may be released to the public in an administrative proceeding before the board, any final determination made by the board, and any legal grounds upon which such action is based, relative to the fitness of any person to receive or to continue to hold a such a certificate shall be a public record.

(Amends C.Cr.P Art. 973(B); Adds R.S. 44:4(51))