



LOUISIANA STATE LAW INSTITUTE

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December 18, 2013

Representative Charles "Chuck" Kleckley
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804-9062

Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

RE: HCR NO. 3 of 2012

Dear Mr. Speaker and Mr. President:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature in response to 2012 House Concurrent Resolution No. 3, relative to laws regarding expungement.

Sincerely,

A handwritten signature in black ink that reads "William E. Crawford".

William E. Crawford
Director

WEC/puc

cc: Representative Joseph P. Lopinto, III

e-mail cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.us
Secretary of State, Mr. Tom Schedler
admin@sos.louisiana.gov

LOUISIANA STATE LAW INSTITUTE

CODE OF CRIMINAL PROCEDURE REVISION COMMITTEE

INTERIM REPORT TO THE LOUISIANA LEGISLATURE

IN RESPONSE TO HOUSE CONCURRENT RESOLUTION NO. 3 OF THE 2012
REGULAR SESSION

(EXPUNGEMENT)

December 18, 2013
Baton Rouge, LA

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December 18, 2013

To: Representative Charles "Chuck" Kleckley
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**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE TO HCR 3 OF 2012
REGULAR SESSION**

The Louisiana State Law Institute has received HCR No. 3 of the 2012 Regular Session, attached, which authorizes and directs the Louisiana State Law Institute "to study and make recommendations for the revision of the laws regarding expungement" and to issue a report to the Legislature of Louisiana no later than January 1, 2014, which shall include its findings and recommendations for simplifying, consolidating, and clarifying expungement procedures.

The Law Institute's Code of Criminal Procedure Revision Committee has undertaken the responsibility to respond to HCR 3. The Committee's Reporter, Professor Cheney C. Joseph, Jr. conducted extensive research into this matter and consulted with those entities specified in the resolution and others which have an interest in the matter.

The Committee met on December 6, 2013 in order to examine the complex issues and the various points of view involved in responding to the resolution's request. After a great deal of discussion, the Committee adopted a report and proposed legislation which it will present to the Institute's Council at its February 2014 meeting. If the Council adopts the Committee report, the proposed legislation will be submitted for the 2014 Regular Session.

Respectfully Submitted,
Cheney C. Joseph, Jr.
Reporter, Code of Criminal Procedure
Revision Committee

Regular Session, 2012

HOUSE CONCURRENT RESOLUTION NO. 3

BY REPRESENTATIVE LOPINTO

A CONCURRENT RESOLUTION

To authorize and direct the Louisiana State Law Institute to study and make recommendations for the revision of laws regarding expungement.

WHEREAS, Louisiana law provides for the expungement of certain arrest and conviction records under limited circumstances; and

WHEREAS, obtaining an expungement allows for the removal of a record from public access but does not result in the destruction of the record; and

WHEREAS, an expunged record is confidential, but remains available for use by law enforcement agencies, criminal justice agencies, and other statutorily defined agencies; and

WHEREAS, the number of agencies which have access to criminal records has been expanded over the past few years, resulting in some confusion with regard to which agencies have access to criminal background information; and

WHEREAS, following the passage of the Maritime Transportation Act of 2002, all individuals who wish to work at ports or on vessels which were regulated by this Act are required to obtain Transportation Worker Identification Credential (TWIC) cards; and

WHEREAS, obtaining a TWIC card requires a criminal history check and clearance which cannot be obtained without either a clean record or an expunged record; and

WHEREAS, the inability to obtain an expungement can prevent individuals from obtaining gainful employment where a TWIC card is required; and

WHEREAS, the provisions of law regarding expungement are complex and sometimes confusing for persons who are attempting to obtain an expungement, attorneys representing people who wish to obtain an expungement, and judges who grant expungements; and

WHEREAS, the provisions of law regarding expungement should be reviewed and thoroughly examined with the goal of simplifying, consolidating, and clarifying expungement procedures.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby authorize and direct the Louisiana State Law Institute to study and make recommendations for the revision of laws regarding expungement.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute work in conjunction with the Louisiana District Attorneys Association, the Louisiana Public Defender Board, the Louisiana Sheriffs' Association, the Louisiana State Police, the Louisiana Commission of Law Enforcement and the Administration of Criminal Justice, the Louisiana Clerks of Court Association, and any other agencies or associations deemed appropriate by the committee regarding this study.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute report its findings and recommendations to the Legislature of Louisiana on or before January 1, 2014.

BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE