
HOUSE COMMITTEE AMENDMENTS

2016 Regular Session

Amendments proposed by House Committee on Administration of Criminal Justice to
Original House Bill No. 7 by Representative Price

1 AMENDMENT NO. 1

2 On page 1, delete lines 2 through 4 in their entirety and insert the following:

3 "To amend and reenact Code of Criminal Procedure Articles 978(B)(1), 989, and 992
4 and to enact Code of Criminal Procedure Articles 976(A)(4) and 978(E), relative to
5 expungement; to"

6 AMENDMENT NO. 2

7 On page 1, line 6, after "period" and before "and" insert "to provide for the expungement
8 forms to be used;"

9 AMENDMENT NO. 3

10 On page 1, delete lines 9 through 11 in their entirety and insert the following:

11 "Section 1. Code of Criminal Procedure Articles 978(B)(1), 989, and 992 are hereby
12 amended and reenacted and Code of Criminal Procedure Articles 976(A)(4) and 978(E) are
13 hereby enacted"

14 AMENDMENT NO. 4

15 On page 1, delete lines 13 through 20 in their entirety

16 AMENDMENT NO. 5

17 On page 2, delete lines 1 and 2 in their entirety and insert the following:

18 "Art. 976. Motion to expunge record of arrest that did not result in a conviction
19 A. A person may file a motion to expunge a record of his arrest for a felony
20 or misdemeanor offense that did not result in a conviction if any of the following
21 apply:

22 * * *

23 (4) The person was judicially determined to be factually innocent and
24 entitled to compensation for a wrongful conviction pursuant to the provisions of R.S.
25 15:572.8. The person may seek to have the arrest and conviction which formed the
26 basis for the wrongful conviction expunged without the limitations or time delays
27 imposed by the provisions of this Article or any other provision of law to the
28 contrary."

29 AMENDMENT NO. 6

30 On page 2, delete lines 5 through 13 in their entirety and insert:

31 "* * *"

32 AMENDMENT NO. 7

33 On page 2, line 24, after "battery," and before "aggravated criminal" delete "aggravated
34 assault,"

1 () Conviction set aside/dismissed _____/_____/_____
2 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
3 () More than 10 years have passed
4 since completion of sentence

5 ____ Yes ____ No **OPERATING A MOTOR VEHICLE WHILE**
6 **INTOXICATED CONVICTIONS**

7 Mover has attached the following:

8 () A copy of the proof from the Department of Public Safety and
9 Corrections, office of motor vehicles, that it has received from the
10 clerk of court a certified copy of the record of the plea, fingerprints
11 of the defendant, and proof of the requirements set forth in C.Cr.P.
12 Art. 556, which shall include the defendant's date of birth, last four
13 digits of social security number, and driver's license number

14 5. Mover has attached to this Motion the following pertinent documents:

- 15 Criminal Background Check from the La. State Police/Parish Sheriff
16 dated within the past 30 days (required).
- 17 Bill(s) of Information (if any).
- 18 Minute entry showing final disposition of case (if any).
- 19 Certification Letter from the District Attorney for fee waiver (if
20 eligible).
- 21 Certification Letter from the District Attorney verifying that the
22 applicant has no convictions or pending applicable criminal charges
23 in the requisite time periods.
- 24 Certification Letter from the District Attorney verifying that the
25 charges were refused.
- 26 Certification Letter from the District Attorney verifying that the
27 applicant did not participate in a pretrial diversion program.
- 28 A copy of the order waiving the sex offender registration and
29 notification requirements.
- 30 A copy of the court order determination of factual innocence and
31 order of compensation for a wrongful conviction pursuant to the
32 provisions of R.S. 15:572.8 if applicable.
33

34 The Mover prays that if there is no objection timely filed by the arresting law
35 enforcement agency, the district attorney's office, or the Louisiana Bureau of
36 Criminal Investigation and Information, that an order be issued herein ordering the
37 expungement of the record of arrest and/or conviction set forth above, including all
38 photographs, fingerprints, disposition, or any other such information, which record
39 shall be confidential and no longer considered a public record, nor be made available
40 to other persons, except a prosecutor, member of a law enforcement agency, or a

1 judge who may request such information in writing, certifying that such request is
2 for the purpose of prosecuting, investigating, or enforcing the criminal law, for the
3 purpose of any other statutorily defined law enforcement or administrative duties,
4 or for the purpose of the requirements of sex offender registration and notification
5 pursuant to the provisions of R.S. 15:541 et seq. or as an order of this Court to any
6 other person for good cause shown, or as otherwise authorized by law.

7 If an "Affidavit of No Opposition" by each agency named herein is attached
8 hereto and made a part hereof, Defendant requests that no contradictory hearing be
9 required and the Motion be granted ex parte.

10 Respectfully submitted,

11 _____
12 Signature of Attorney for Mover/Defendant

13 _____
14 Attorney for Mover/Defendant Name

15 _____
16 Attorney's Bar Roll No.

17 _____
18 Address

19 _____
20 City, State, ZIP Code

21 _____
22 Telephone Number

23
24 **If not represented by counsel:**

25 _____
26 Signature of Mover/Defendant

27 _____
28 Mover/Defendant Name

29 _____
30 Address

31 _____
32 City, State, ZIP Code

33 _____
34 Telephone Number

35 * * *

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38 Art. 992. Order of expungement form to be used

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STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF

No.: _____ **Division:** " _____ "

State of Louisiana

vs.

ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD

Considering the Motion for Expungement

- The hearing conducted and evidence adduced herein, OR
- Affidavits of No Opposition filed,

IT IS ORDERED, ADJUDGED AND DECREED

THE MOTION IS DENIED for Item(s) No. _____, the following reasons (check all that apply):

More than five years have not elapsed since Mover completed the misdemeanor conviction sentence.

More than ten years have not elapsed since Mover completed the felony conviction sentence.

Mover was convicted of one of the following ineligible felony offenses:

A violation of the Uniform Controlled Dangerous Substances Law which is ineligible to be expunged.

An offense currently listed as a sex offense that requires registration pursuant to La. Rev. Stat. Ann. 15:540 et seq., at the time the Motion was filed, regardless of whether the duty to register was ever imposed.

An offense defined or enumerated as a "crime of violence" pursuant to La. Rev. Stat. Ann. 14:2(B) at the time the Motion was filed.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

- 1 The arrest and conviction being sought to have expunged is for
2 operating a motor vehicle while intoxicated and a copy of the proof
3 from the Department of Public Safety and Corrections, office of
4 motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).
- 5 Mover has had another record of misdemeanor conviction expunged
6 during the previous five-year period.
- 7 The record of arrest and conviction which Mover seeks to have
8 expunged is for operating a motor vehicle while intoxicated and
9 Mover has had another record of arrest and misdemeanor conviction
10 expunged during the previous ten-year period.
- 11 Mover has had another record of felony conviction expunged during
12 the previous fifteen-year period.
- 13 Mover was convicted of a misdemeanor which arose from
14 circumstances involving a sex offense as defined in R.S. 15:541.
- 15 Mover was convicted of misdemeanor offense of domestic abuse
16 battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
- 17 Mover did not complete pretrial diversion.
- 18 The charges against the mover were not dismissed or refused.
- 19 Mover's felony conviction was not set aside and dismissed pursuant
20 to C.Cr.P. Art. 893(E).
- 21 Mover's felony conviction was not set aside and dismissed pursuant
22 to C.Cr.P. Art. 894(B).
- 23 Mover completed a DWI pretrial diversion program, but five years
24 have not elapsed since the mover's date of arrest.
- 25 Mover's conviction for felony carnal knowledge of a juvenile is not
26 defined as misdemeanor carnal knowledge of a juvenile had the
27 mover been convicted on or after August 15, 2001.
- 28 Mover's conviction for felony carnal knowledge of a juvenile is not
29 defined as misdemeanor carnal knowledge of a juvenile had the
30 mover been convicted on or after August 15, 2001.

1 Mover has not been employed for ten consecutive years as required
2 by Article 978(E)(1)(d)

3 Mover was not convicted of a crime that would be eligible for
4 expungement as required by Article 978(E)(1)

5 Mover has criminal charges pending against him.

6 Mover was convicted of a criminal offense during the ten year period.

7 Denial for any other reason provided by law with attached reasons for
8 denial.

9 **THE MOTION IS HEREBY GRANTED** for Item(s) No.
10 _____ and all agencies are ordered to expunge the record of
11 arrest/conviction and any photographs, fingerprints, or any other such information
12 of any kind maintained in connection with the Arrest(s)/Conviction(s) in the above-
13 captioned matter, which record shall be confidential and no longer considered a
14 public record, nor be available to other persons except a prosecutor, member of a law
15 enforcement agency, or a judge who may request such information in writing
16 certifying that such request is for the purpose of prosecuting, investigating, or
17 enforcing the criminal law, for the purpose of any other statutorily defined law
18 enforcement or administrative duties, or for the purpose of the requirements of sex
19 offender registration and notification pursuant to the provisions of R.S. 15:541 et
20 seq. or upon an order of this Court to any other person for good cause shown, or as
21 otherwise authorized by law.

22 **THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT**
23 **BY REDACTION** If the record includes more than one individual and the mover
24 is entitled to expungement by redaction pursuant to Code of Criminal Procedure
25 Article 985, for Item(s) No. _____ and all agencies are ordered to expunge
26 the record of arrest/conviction and any photographs, fingerprints, or any other such
27 information of any kind maintained in relation to the Arrest(s)/Conviction(s) in the
28 above-captioned matter as they relate to the mover only. The record shall be
29 confidential and no longer considered a public record, nor be available to other
30 persons except a prosecutor, member of a law enforcement agency, or a judge who

1 may request such information in writing certifying that such request is for the
2 purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose
3 of any other statutorily defined law enforcement or administrative duties, or for the
4 purpose of the requirements of sex offender registration and notification pursuant to
5 the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other
6 person for good cause shown, or as otherwise authorized by law.

7 NAME: _____
8 (Last, First, MI)

9 DOB: ____/____/____ (MM/DD/YY)

10 GENDER: ____ Female ____ Male

11 SSN (last 4 digits): XXX-XX-_____

12 RACE: _____

13 DRIVER LIC.# _____

14 ARRESTING AGENCY: _____

15 SID# (if available): _____

16 ARREST NUMBER (ATN): _____

17 AGENCY ITEM NUMBER: _____

18 ARREST DATE: ____/____/____ (MM/DD/YY)

19 **THUS ORDERED AND SIGNED** this ____ day of _____, 20 ____

20 at _____, Louisiana.

21 _____
22 JUDGE

23 **PLEASE SERVE:**

24 1. District Attorney: _____

25 2. Arresting Agency: _____

26 3. Parish Sheriff: _____

27 4. Louisiana Bureau of Criminal Identification and Information _____

28 5. Attorney for Defendant (or defendant) _____

29 6. Clerk of Court _____ "