2020 Regular Session

#### HOUSE BILL NO. 179

#### BY REPRESENTATIVE MARINO

1	AN ACT
2	To amend and reenact Code of Criminal Procedure Articles 989 and 992 and to repeal Code
3	of Criminal Procedure Article 978(E)(1)(d), relative to expungement; to provide
4	relative to the expungement of certain crimes after a cleansing period; to remove the
5	requirement that a person must be employed for a period of ten consecutive years;
6	to provide for the expungement forms to be used; and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. Code of Criminal Procedure Articles 989 and 992 are hereby amended
9	and reenacted to read as follows:
10	Art. 989. Motion for expungement forms to be used
11	STATE OF LOUISIANA
12	JUDICIAL DISTRICT FOR THE PARISH OF
13	
14	No.: Division: ""
15	State of Louisiana
16	vs.
17	
18	MOTION FOR EXPUNGEMENT
19	NOW INTO COURT comes mover, who provides the court with the
20	following information in connection with this request:
21	I. DEFENDANT INFORMATION
22	NAME:
23	(Last, First, MI)

**ENROLLED** 

**ACT No. 71** 

Page 1 of 11

	HB NO. 179			ENROLLED
1	DOB:		//	_(MM/DD/YYYY)
2	GENI	DER	Female	Male
3	SSN (	(last 4 digits):	XXX-XX-	_
4	RACE	E:		
5	DRIV	'ER LIC.#		
6	ARRI	ESTING AGENCY:		
7	SID#	(if available):		
8	ARRI	EST NUMBER (ATN):		
9	AGEN	NCY ITEM NO		
10		Mover is entitled to e	xpunge the record o	f his arrest/conviction pursuant to
11	Louis	iana Code of Criminal	Procedure Article 9	71 et seq. and states the following
12	in sup	pport:		
13	II.	ARREST INFORM	ATION	
14	1.	Mover was arrested o	n//	(MM/DD/YYYY)
15	2.	YESN	O A supplen	nental sheet with arrests and/or
16			convictions	is attached after page 2 of this
17			Motion.	
18	3.	Mover was:		
19		YESN	O Arrested, b	at it did not result in conviction
20		YESNO	O Convicted	of and seeks to expunge a
21			misdemean	or
22		YESN	Convicted of	of and seeks to expunge a felony
23		YESNO	O Convicted	but determined to be factually
24			innocent an	d entitled to compensation for a
25			wrongful	conviction pursuant to the
26			provisions	of R.S. 15:572.8.
27	4.	Mover was booked an	nd/or charged with t	he following offenses: (List each
28		offense booked and	charged separately.	Attach a supplemental sheet, if
29		necessary.)		
30		Yes <u>No</u> ARRE	CSTS THAT DID N	OT RESULT IN CONVICTION

Page 2 of 11

	HB NO. 179		ENROLLED
1	NO. 1	La. Rev. Stat. Ann.	§:
2		Name of the offense	
3		() Time expired for prosecution	
4			(MM/DD/YYYY)
5		() Not prosecuted for any offense	
6		arising out of this charge.	
7		() Pre-trial Diversion Program.	
8		() DWI Pre-Trial Diversion Progr	am
9		and 5 years have elapsed since	the
10		date of arrest.	
11		() Charge dismissed	
12		() Found not guilty/judgment of a	cquittal
13	NO. 2	La. Rev. Stat. Ann.	§:
14		Name of the offense	
15		() Time expired for prosecution	
16			(MM/DD/YYYY)
17		() Not prosecuted for any	
18		offense arising out of this charg	ge.
19		() Pre-trial Diversion Program.	
20		() Charge dismissed	
21		() Found not guilty/judgment of a	cquittal
22	NO. 3	La. Rev. Stat. Ann.	§::
23		Name of the offense	
24		() Time expired for prosecution	
25			(MM/DD/YYYY)
26		() Not prosecuted for any offense	
27		arising out of this charge.	
28		() Pre-trial Diversion Program.	
29		() Charge dismissed	
30		() Found not guilty/judgment of a	cquittal

Page 3 of 11

#### **ENROLLED**

1	Yes	<b>No MISDEMEANOR CONVICTION</b>	IS
2	NO. 1	La. Rev. Stat. Ann.	§:
3		Name of the offense	
4		() Conviction set aside/dismissed	//
5		pursuant to C.Cr.P. Art. 894(B)	(MM/DD/YYYY)
6		() More than 5 years have passed	
7		since completion of sentence.	
8	NO. 2	La. Rev. Stat. Ann.	§::
9		Name of the offense	
10		() Conviction set aside/dismissed	//
11		pursuant to C.Cr.P. Art. 894(B)	(MM/DD/YYYY)
12		() More than 5 years have passed	
13		since completion of sentence.	
14	Yes	<b>No FELONY CONVICTIONS</b>	
15	NO. 1	La. Rev. Stat. Ann.	§:
16		() Conviction set aside/dismissed	//
17		pursuant to C.Cr.P. Art. 893(E)	(MM/DD/YYYY)
18		() More than 10 years have passed	
19		since completion of sentence	
20	NO. 2	La. Rev. Stat. Ann.	§:
21		() Conviction set aside/dismissed	//
22		pursuant to C.Cr.P. Art. 893(E)	(MM/DD/YYYY)
23		() More than 10 years have passed	
24		since completion of sentence	
25	Yes	NO OPERATING A MOTOR	VEHICLE WHILE
26		INTOXICATED CONVICTIONS	
27	Mover has at	tached the following:	
28	( )	A copy of the proof from the Department	nt of Public Safety and
29		Corrections, office of motor vehicles, that i	t has received from the
30		clerk of court a certified copy of the record	of the plea, fingerprints

Page 4 of 11

**ENROLLED** 

	HB NO. 179	ENROLLED
1		of the defendant, and proof of the requirements set forth in C.Cr.P.
2		Art. 556, which shall include the defendant's date of birth, last four
3		digits of social security number, and driver's license number
4	5. Mover has	attached to this Motion the following pertinent documents:
5		Criminal Background Check from the La. State Police/Parish Sheriff
6		dated within the past 60 days (required).
7		Bill(s) of Information (if any).
8		Minute entry showing final disposition of case (if any).
9		Certification Letter from the District Attorney for fee waiver (if
10		eligible).
11		Certification Letter from the District Attorney verifying that the
12		applicant has no convictions or pending applicable criminal charges
13		in the requisite time periods.
14		Certification Letter from the District Attorney verifying that the
15		charges were refused.
16		Certification Letter from the District Attorney verifying that the
17		applicant did not participate in a pretrial diversion program.
18		A copy of the order waiving the sex offender registration and
19		notification requirements.
20		Documentation verifying that the mover has been employed for ten
21		consecutive years.
22		A copy of the court order determination of factual innocence and
23		order of compensation for a wrongful conviction pursuant to the
24		provisions of R.S. 15:572.8 if applicable.
25	The M	lover prays that if there is no objection timely filed by the arresting law
26	enforcement	agency, the district attorney's office, or the Louisiana Bureau of
27	Criminal Iden	tification and Information, that an order be issued herein ordering the
28	expungement	of the record of arrest and/or conviction set forth above, including all
29	photographs,	fingerprints, disposition, or any other such information, which record
30	shall be confid	dential and no longer considered a public record, nor be made available

# Page 5 of 11

1	to other persons, except a prosecutor, member of a law enforcement agency, or a
2	judge who may request such information in writing, certifying that such request is
3	for the purpose of prosecuting, investigating, or enforcing the criminal law, for the
4	purpose of any other statutorily defined law enforcement or administrative duties,
5	or for the purpose of the requirements of sex offender registration and notification
6	pursuant to the provisions of R.S. 15:541 et seq. or as an order of this Court to any
7	other person for good cause shown, or as otherwise authorized by law.
8	If an "Affidavit of No Opposition" by each agency named herein is attached
9	hereto and made a part hereof, Defendant requests that no contradictory hearing be
10	required and the Motion be granted ex parte.
11	Respectfully submitted,
12	
13	Signature of Attorney for Mover/Defendant
14	
15	Attorney for Mover/Defendant Name
16	
17	Attorney's Bar Roll No.
18	
19	Address
20	
21	
22	City, State, ZIP Code
23	
24	Telephone Number
25	If not represented by counsel:
26	
27	Signature of Mover/Defendant
28	
29	Mover/Defendant Name

Page 6 of 11

1			
2			Address
3			
4			City, State, ZIP Code
5			
6			Telephone Number
7			* * *
8	Art. 9	992. O	rder of expungement form to be used
9			STATE OF LOUISIANA
10			JUDICIAL DISTRICT FOR THE PARISH OF
11			
12	No.:		Division: ""
13			State of Louisiana
14			vs.
15			
16	ORDI	ER OF	<b>EXPUNGEMENT OF ARREST/CONVICTION RECORD</b>
17	Cons	idering	the Motion for Expungement
18		The	hearing conducted and evidence adduced herein, OR
19		Affic	davits of No Opposition filed,
20	IT IS	ORDE	RED, ADJUDGED AND DECREED
21		THE	MOTION IS DENIED for No(s), , , , for the following
22		reaso	ons (check all that apply):
23			More than five years have not elapsed since Mover completed the
24			misdemeanor conviction sentence.
25			More than ten years have not elapsed since Mover completed the
26			felony conviction sentence.
27			Mover was convicted of one of the following ineligible felony
28			offenses:
29			A violation of the Uniform Controlled Dangerous Substances Law
30			which is ineligible to be expunged.

# Page 7 of 11

1	An offense currently listed as a sex offense that requires registration
2	pursuant to R.S. 15:540 et seq., at the time the Motion was filed,
3	regardless of whether the duty to register was ever imposed.
4	An offense defined or enumerated as a "crime of violence" pursuant
5	to R.S. 14:2(B) at the time the Motion was filed.
6	The arrest and conviction being sought to have expunged is for
7	operating a motor vehicle while intoxicated and a copy of the proof
8	from the Department of Public Safety and Corrections, office of
9	motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).
10	Mover has had another record of misdemeanor conviction expunged
11	during the previous five-year period.
12	The record of arrest and conviction which Mover seeks to have
13	expunged is for operating a motor vehicle while intoxicated and
14	Mover has had another record of arrest and misdemeanor conviction
15	expunged during the previous ten-year period.
16	Mover has had another record of felony conviction expunged during
17	the previous fifteen-year period.
18	Mover was convicted of a misdemeanor which arose from
19	circumstances involving a sex offense as defined in R.S. 15:541.
20	Mover was convicted of misdemeanor offense of domestic abuse
21	battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
22	Mover did not complete pretrial diversion.
23	The charges against the mover were not dismissed or refused.
24	Mover's felony conviction was not set aside and dismissed pursuant
25	to C.Cr.P. Art. 893(E).
26	Mover's felony conviction was not set aside and dismissed pursuant
27	to C.Cr.P. Art. 894(B).
28	Mover completed a DWI pretrial diversion program, but five years
29	have not elapsed since the mover's date of arrest.

# Page 8 of 11

1		Mover's conviction for felony carnal knowledge of a juvenile is not
2		defined as misdemeanor carnal knowledge of a juvenile had the
3		mover been convicted on or after August 15, 2001.
4		Mover has not been employed for ten consecutive years as required
5		by C.Cr.P. Art. 978(E)(1)(d).
6		Mover was not convicted of a crime that would be eligible for
7		expungement as required by C.Cr.P. Art. 978(E)(1).
8		Mover has criminal charges pending against him.
9		Mover was convicted of a criminal offense during the ten-year
10		period.
11		Denial for any other reason provided by law with attached reasons for
12		denial.
13		THE MOTION IS HEREBY GRANTED for No(s).
14	and al	l agencies are ordered to expunge the record of arrest/conviction and
15	any p	hotographs, fingerprints, or any other such information of any kind
16	maint	ained in connection with the Arrest(s)/Conviction(s) in the above-
17	captio	ned matter, which record shall be confidential and no longer
18	consid	lered a public record, nor be available to other persons except a
19	prosec	cutor, member of a law enforcement agency, or a judge who may
20	reques	st such information in writing certifying that such request is for the
21	purpo	se of prosecuting, investigating, or enforcing the criminal law, for the
22	purpo	se of any other statutorily defined law enforcement or administrative
23	duties	, or for the purpose of the requirements of sex offender registration and
24	notific	cation pursuant to the provisions of R.S. 15:541 et seq. or upon an order
25	of this	s Court to any other person for good cause shown, or as otherwise
26	author	rized by law.
27		THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT
28	BY REDAC	<b>TION</b> If the record includes more than one individual and the mover
29	is entitled to	expungement by redaction pursuant to Code of Criminal Procedure
30	Article 985, f	for No(s) and all agencies are ordered to expunge the

1	record of arrest/conviction and any photographs, fingerprints, or any other such
2	information of any kind maintained in relation to the Arrest(s)/Conviction(s) in the
3	above-captioned matter as they relate to the mover only. The record shall be
4	confidential and no longer considered a public record, nor be available to other
5	persons except a prosecutor, member of a law enforcement agency, or a judge who
6	may request such information in writing certifying that such request is for the
7	purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose
8	of any other statutorily defined law enforcement or administrative duties, or for the
9	purpose of the requirements of sex offender registration and notification pursuant to
10	the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other
11	person for good cause shown, or as otherwise authorized by law.
12	NAME:
13	(Last, First, MI)
14	DOB:/(MM/DD/YY)
15	GENDER: FemaleMale
16	SSN (last 4 digits): XXX-XX
17	RACE:
18	DRIVER LIC.#
19	ARRESTING AGENCY:
20	SID# (if available):
21	ARREST NUMBER (ATN):
22	AGENCY ITEM NUMBER:
23	ARREST DATE:/(MM/DD/YY)
24	THUS ORDERED AND SIGNED this day of, 20
25	at, Louisiana.
26	
27	JUDGE
28	PLEASE SERVE:
29	1. District Attorney:

Page 10 of 11

	HB NO. 179	ENROLLED
1	2.	Arresting Agency:
2	3.	Parish Sheriff:
3	4.	Louisiana Bureau of Criminal Identification and Information
4	5.	Attorney for Defendant (or defendant)
5	6.	Clerk of Court
6	Sectio	n 2. Code of Criminal Procedure Article 978(E)(1)(d) is hereby repealed in
7	its entirety.	

### SPEAKER OF THE HOUSE OF REPRESENTATIVES

### PRESIDENT OF THE SENATE

### GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_