

ACT No. 73

2020 Regular Session

HOUSE BILL NO. 194

BY REPRESENTATIVE MARINO

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 989, 992, and 993, relative to
3 expungement; to provide with respect for expungement forms; to provide for the
4 amendment of certain forms for expungement; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Articles 989, 992, and 993 are hereby
7 amended and reenacted to read as follows:

8 Art. 989. Motion for expungement forms 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 **MOTION FOR EXPUNGEMENT**

17 NOW INTO COURT comes mover, who provides the court with the
18 following information in connection with this request:

19 **I. DEFENDANT INFORMATION**

20 NAME: _____

21 *(Last, First, MI)*

22 DOB: _____ / _____ / _____ (MM/DD/YYYY)

23 GENDER _____ Female _____ Male

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

1 RACE: _____
 2 DRIVER LIC.# _____
 3 ARRESTING AGENCY: _____
 4 SID# (if available): _____
 5 ARREST NUMBER (ATN): _____
 6 AGENCY ITEM NO. _____

7 Mover is entitled to expunge the record of his arrest/conviction pursuant to
 8 Louisiana Code of Criminal Procedure Article 971 et seq. and states the following
 9 in support:

10 **II. ARREST INFORMATION**

11 1. Mover was arrested on ____/____/____ (MM/DD/YYYY)
 12 2. ____ YES ____ NO A supplemental sheet with arrests and/or
 13 convictions is attached after page 2 of this
 14 Motion.

15 3. Mover was:
 16 ____ YES ____ NO Arrested, but it did not result in conviction
 17 ____ YES ____ NO Convicted of and seeks to expunge a
 18 misdemeanor
 19 ____ YES ____ NO Convicted of and seeks to expunge a felony
 20 ____ YES ____ NO Convicted but determined to be factually
 21 innocent and entitled to compensation for a
 22 wrongful conviction pursuant to the
 23 provisions of R.S. 15:572.8.

24 4. Mover was booked and/or charged with the following offenses: (List each
 25 offense booked and charged separately. Attach a supplemental sheet, if
 26 necessary.)

27 ____ Yes ____ No **ARRESTS THAT DID NOT RESULT IN CONVICTION**

28 **NO. 1** La. Rev. Stat. Ann. § _____ : _____
 29 Name of the offense _____

1 () Time expired for prosecution _____
2 (MM/DD/YYYY)

3 () Not prosecuted for any offense
4 arising out of this charge.

5 () Pre-trial Diversion Program.

6 () DWI Pre-Trial Diversion Program
7 and 5 years have elapsed since the
8 date of arrest.

9 () Charge dismissed

10 () Found not guilty/judgment of acquittal

11 **NO. 2** La. Rev. Stat. Ann. § _____ : _____

12 Name of the offense _____

13 () Time expired for prosecution _____
14 (MM/DD/YYYY)

15 () Not prosecuted for any
16 offense arising out of this charge.

17 () Pre-trial Diversion Program.

18 () Charge dismissed

19 () Found not guilty/judgment of acquittal

20 **NO. 3** La. Rev. Stat. Ann. § _____ : _____

21 Name of the offense _____

22 () Time expired for prosecution _____
23 (MM/DD/YYYY)

24 () Not prosecuted for any offense
25 arising out of this charge.

26 () Pre-trial Diversion Program.

27 () Charge dismissed

28 () Found not guilty/judgment of acquittal

29 ____ Yes ____ No **MISDEMEANOR CONVICTIONS**

30 **NO. 1** La. Rev. Stat. Ann. § _____ : _____

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

1 Name of the offense _____
 2 () Conviction set aside/dismissed ____/____/_____
 3 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 4 () More than 5 years have passed
 5 since completion of sentence.

6 **NO. 2** La. Rev. Stat. Ann. § _____ : _____
 7 Name of the offense _____
 8 () Conviction set aside/dismissed ____/____/_____
 9 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 10 () More than 5 years have passed
 11 since completion of sentence.

12 **Yes** **No** **FELONY CONVICTIONS**

13 **NO. 1** La. Rev. Stat. Ann. § _____ : _____
 14 () Conviction set aside/dismissed ____/____/_____
 15 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
 16 () More than 10 years have passed
 17 since completion of sentence
 18 () Received a first offender pardon for an eligible offense

19 **NO. 2** La. Rev. Stat. Ann. § _____ : _____
 20 () Conviction set aside/dismissed ____/____/_____
 21 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
 22 () More than 10 years have passed
 23 since completion of sentence
 24 () Received a first offender pardon for an eligible offense

25 **Yes** **No** **OPERATING A MOTOR VEHICLE WHILE**
 26 **INTOXICATED CONVICTIONS**

27 Mover has attached the following:

28 () A copy of the proof from the Department of Public Safety and
 29 Corrections, office of motor vehicles, that it has received from the
 30 clerk of court a certified copy of the record of the plea, fingerprints

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 a first offender pardon.
- 19 A copy of the order waiving the sex offender registration and
- 20 notification requirements.
- 21 Documentation verifying that the mover has been employed for ten
- 22 consecutive years.
- 23 A copy of the court order determination of factual innocence and
- 24 order of compensation for a wrongful conviction pursuant to the
- 25 provisions of R.S. 15:572.8 if applicable.

26 The Mover prays that if there is no objection timely filed by the arresting law
27 enforcement agency, the district attorney's office, or the Louisiana Bureau of
28 Criminal Identification and Information, that an order be issued herein ordering the
29 expungement of the record of arrest and/or conviction set forth above, including all
30 photographs, fingerprints, disposition, or any other such information, which record

1 shall be confidential and no longer considered a public record, nor be made available
 2 to other persons, except a prosecutor, member of a law enforcement agency, or a
 3 judge who may request such information in writing, certifying that such request is
 4 for the purpose of prosecuting, investigating, or enforcing the criminal law, for the
 5 purpose of any other statutorily defined law enforcement or administrative duties,
 6 or for the purpose of the requirements of sex offender registration and notification
 7 pursuant to the provisions of R.S. 15:541 et seq. or as an order of this Court to any
 8 other person for good cause shown, or as otherwise authorized by law.

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

12 Respectfully submitted,

13 _____

14 Signature of Attorney for Mover/Defendant

15 _____

16 Attorney for Mover/Defendant Name

17 _____

18 Attorney's Bar Roll No.

19 _____

20 Address

21 _____

22 City, State, ZIP Code

23 _____

24 Telephone Number

25 **If not represented by counsel:**

26 _____

27 Signature of Mover/Defendant

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Mover/Defendant Name

Address

City, State, ZIP Code

Telephone Number

* * *

Art. 992. Order of expungement form to be used

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 No(s). , , for 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:

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

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

- 1 Mover completed a DWI pretrial diversion program, but five years
- 2 have not elapsed since the mover's date of arrest.
- 3 Mover's conviction for felony carnal knowledge of a juvenile is not
- 4 defined as misdemeanor carnal knowledge of a juvenile had the
- 5 mover been convicted on or after August 15, 2001.
- 6 Mover has not been employed for ten consecutive years as required
- 7 by C.Cr.P. Art. 978(E)(1)(d).
- 8 Mover was not convicted of a crime that would be eligible for
- 9 expungement as required by C.Cr.P. Art. 978(E)(1).
- 10 Mover has criminal charges pending against him.
- 11 Mover was convicted of a criminal offense during the ten-year
- 12 period.
- 13 Mover received a first offender pardon but for an ineligible offense.
- 14 Mover did not receive a first offender pardon.
- 15 Denial for any other reason provided by law with attached reasons for
- 16 denial.
- 17 **THE MOTION IS HEREBY GRANTED** for No(s). _____

18 and all agencies are ordered to expunge the record of arrest/conviction and any

19 photographs, fingerprints, or any other such information of any kind maintained in

20 connection with the Arrest(s)/Conviction(s) in the above-captioned matter, which

21 record shall be confidential and no longer considered a public record, nor be

22 available to other persons except a prosecutor, member of a law enforcement agency,

23 or a judge who may request such information in writing certifying that such request

24 is for the purpose of prosecuting, investigating, or enforcing the criminal law, for the

25 purpose of any other statutorily defined law enforcement or administrative duties,

26 or for the purpose of the requirements of sex offender registration and notification

27 pursuant to the provisions of R.S. 15:541 et seq. or upon an order of this Court to any

28 other person for good cause shown, or as otherwise authorized by law.

- 29 **THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT**
- 30 **BY REDACTION** If the record includes more than one individual and the mover

1 is entitled to expungement by redaction pursuant to Code of Criminal Procedure
 2 Article 985, for No(s). _____ and all agencies are ordered to expunge the
 3 record of arrest/conviction and any photographs, fingerprints, or any other such
 4 information of any kind maintained in relation to the Arrest(s)/Conviction(s) in the
 5 above-captioned matter as they relate to the mover only. The record shall be
 6 confidential and no longer considered a public record, nor be available to other
 7 persons except a prosecutor, member of a law enforcement agency, or a judge who
 8 may request such information in writing certifying that such request is for the
 9 purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose
 10 of any other statutorily defined law enforcement or administrative duties, or for the
 11 purpose of the requirements of sex offender registration and notification pursuant to
 12 the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other
 13 person for good cause shown, or as otherwise authorized by law.

14 NAME: _____

15 (Last, First, MI)

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

17 GENDER: ____ Female ____ Male

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

19 RACE: _____

20 DRIVER LIC.# _____

21 ARRESTING AGENCY: _____

22 SID# (if available): _____

23 ARREST NUMBER (ATN): _____

24 AGENCY ITEM NUMBER: _____

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

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

27 at _____, Louisiana.

28 _____

29 JUDGE

1 **PLEASE SERVE:**

- 2 1. District Attorney: _____
- 3 2. Arresting Agency: _____
- 4 3. Parish Sheriff: _____
- 5 4. Louisiana Bureau of Criminal Identification and Information _____
- 6 5. Attorney for Defendant (or defendant) _____
- 7 6. Clerk of Court _____

8 Art. 993. Supplemental forms to be used

9 **SUPPLEMENTAL SHEET**

10 Yes No **ARRESTS THAT DID NOT RESULT IN CONVICTION**

11 **NO.** La. Rev. Stat. Ann. § :

12 Name of the offense _____

13 () Time expired for prosecution / /

14 (MM/DD/YYYY)

15 () Charge refused by DA - not prosecuted.

16 () Pre-trial Diversion Program.

17 () Charge dismissed

18 () Found not guilty/judgment of acquittal

19 **NO.** La. Rev. Stat. Ann. § :

20 Name of the offense _____

21 () Time expired for prosecution / /

22 (MM/DD/YYYY)

23 () Charge refused by DA - not prosecuted.

24 () Pre-trial Diversion Program.

25 () Charge dismissed

26 () Found not guilty/judgment of acquittal

27 **NO.** La. Rev. Stat. Ann. § :

28 Name of the offense _____

29 () Time expired for prosecution / /

30 (MM/DD/YYYY)

- 1 () Charge refused by DA - not prosecuted.
- 2 () Pre-trial Diversion Program.
- 3 () Charge dismissed
- 4 () Found not guilty/judgment of acquittal
- 5 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____
- 6 Name of the offense _____
- 7 () Time expired for prosecution ____ / ____ / ____
- 8 (MM/DD/YYYY)
- 9 () Charge refused by DA - not prosecuted.
- 10 () Pre-trial Diversion Program.
- 11 () Charge dismissed
- 12 () Found not guilty/judgment of acquittal
- 13 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____
- 14 Name of the offense _____
- 15 () Time expired for prosecution ____ / ____ / ____
- 16 (MM/DD/YYYY)
- 17 () Charge refused by DA - not prosecuted.
- 18 () Pre-trial Diversion Program.
- 19 () Charge dismissed
- 20 () Found not guilty/judgment of acquittal
- 21 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____
- 22 Name of the offense _____
- 23 () Time expired for prosecution ____ / ____ / ____
- 24 (MM/DD/YYYY)
- 25 () Charge refused by DA - not prosecuted.
- 26 () Pre-trial Diversion Program.
- 27 () Charge dismissed
- 28 () Found not guilty/judgment of acquittal

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SUPPLEMENTAL SHEET

___ Yes ___ No MISDEMEANOR CONVICTIONS

NO. ___ La. Rev. Stat. Ann. § _____ :

Name of the offense _____

() Conviction set aside/dismissed ____/____/____

(MM/DD/YYYY)

pursuant to C.Cr.P. Art. 894(B)

() More than 5 years have passed

since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _____ :

Name of the offense _____

() Conviction set aside/dismissed ____/____/____

(MM/DD/YYYY)

pursuant to C.Cr.P. Art. 894(B)

() More than 5 years have passed

since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _____ :

Name of the offense _____

() Conviction set aside/dismissed ____/____/____

(MM/DD/YYYY)

pursuant to C.Cr.P. Art. 894(B)

() More than 5 years have passed

since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _____ :

Name of the offense _____

() Conviction set aside/dismissed ____/____/____

(MM/DD/YYYY)

pursuant to C.Cr.P. Art. 894(B)

() More than 5 years have passed

since completion of sentence.

1 () Conviction set aside/dismissed ____/____/____
 2 (MM/DD/YYYY)
 3 pursuant to C.Cr.P. Art. 894(B)
 4 () More than 5 years have passed
 5 since completion of sentence.

SUPPLEMENTAL SHEET

7 ____ **Yes** ____ **No** **FELONY CONVICTIONS**

8 **NO.** ____ La. Rev. Stat. Ann. § ____ : ____
 9 Name of the offense _____

10 () Conviction set aside/dismissed ____/____/____
 11 (MM/DD/YYYY)
 12 pursuant to C.Cr.P. Art. 893(E)
 13 () More than 10 years have passed
 14 since completion of sentence

15 () Received a first offender pardon for an eligible offense

16 **NO.** ____ La. Rev. Stat. Ann. § ____ : ____
 17 Name of the offense _____

18 () Conviction set aside/dismissed ____/____/____
 19 (MM/DD/YYYY)
 20 pursuant to C.Cr.P. Art. 893(E)
 21 () More than 10 years have passed
 22 since completion of sentence

23 () Received a first offender pardon for an eligible offense

24 **NO.** ____ La. Rev. Stat. Ann. § ____ : ____
 25 Name of the offense _____

26 () Conviction set aside/dismissed ____/____/____
 27 (MM/DD/YYYY)
 28 pursuant to C.Cr.P. Art. 893(E)
 29 () More than 10 years have passed
 30 since completion of sentence

1 pursuant to C.Cr.P. Art. 893(E)
2 () More than 10 years have passed
3 since completion of sentence
4 () Received a first offender pardon for an eligible offense
5 NO. ____ La. Rev. Stat. Ann. § _____ : _____
6 Name of the offense _____
7 () Conviction set aside/dismisssed _____ / _____ / _____
8 (MM/DD/YYYY)

9 pursuant to C.Cr.P. Art. 893(E)
10 () More than 10 years have passed
11 since completion of sentence
12 () Received a first offender pardon for an eligible offense
13 NO. ____ La. Rev. Stat. Ann. § _____ : _____
14 Name of the offense _____
15 () Conviction set aside/dismisssed _____ / _____ / _____
16 (MM/DD/YYYY)

17 pursuant to C.Cr.P. Art. 893(E)
18 () More than 10 years have passed
19 since completion of sentence
20 () Received a first offender pardon for an eligible offense
21 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____