

2015 Regular Session

HOUSE BILL NO. 284

BY REPRESENTATIVE LOPINTO AND SENATOR GALLOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/PROCEDURE: Amends provisions of law regarding expungement

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 976, 977(C)(introductory
3 paragraph) and (1), 978(B)(1) and (3), 979, 980(C) and (D), 984(C), 988, 989, and
4 992 and to enact Code of Criminal Procedure Articles 894.5, 977(C)(3), 984(D),
5 986(C), and 996, relative to expungement; to provide for a time limitation for an
6 expungement for an arrest for operating a vehicle while intoxicated involving the use
7 of a pretrial diversion program; to provide for the eligibility to expunge certain
8 convictions; to prohibit the expungement of a record of arrest and conviction for
9 misdemeanor stalking; to provide with respect to the expungement of arrest and
10 conviction records of certain felony convictions of violations of the Uniformed
11 Controlled Dangerous Substances Act; to provide for notice regarding the service of
12 expungement motions through United States mail; to provide with respect to time
13 periods for objecting to a motion to expunge records; to amend procedures involving
14 the expungement of records for violations of the operation of a motor vehicle while
15 intoxicated; to provide with respect to the forms required for expungements; to
16 provide for the amendment of forms to include names of the appropriate court
17 ordering the expungement of records; to amend expungement forms to provide a fee
18 waiver for juvenile drug court participants; to provide forms for expungement by
19 redaction; to provide forms for submission of data to the Department of Public
20 Safety and Corrections, office of motor vehicles, regarding driving while intoxicated
21 offenses; to provide for applicability; to provide for time limitations to make an
22 objection to an expungement and the setting of a contradictory hearing regarding an
23 objection; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. Code of Criminal Procedure Articles 976, 977(C)(introductory paragraph)
3 and (1), 978(B)(1) and (3), 979, 980(C) and (D), 984(C), 988, 989, and 992 are hereby
4 amended and reenacted and Code of Criminal Procedure Articles 977(C)(3), 984(D), 986(C),
5 and 996 are hereby enacted to read as follows:

6 Art. 976. Motion to expunge record of arrest that did not result in a conviction

7 A. A person may file a motion to expunge a record of his arrest for a felony
8 or misdemeanor offense that did not result in a conviction if any of the following
9 apply:

10 (1) The person was not prosecuted for the offense for which he was arrested,
11 and the limitations on the institution of prosecution have barred the prosecution for
12 that offense.

13 (2) The district attorney for any reason declined to prosecute any offense
14 arising out of that arrest.

15 (3) Prosecution was instituted and such proceedings have been finally
16 disposed of by dismissal, sustaining of a motion to quash, or acquittal.

17 B. Pursuant to R.S. 15:578.1, no person arrested for a violation of R.S. 14:98
18 (operating a vehicle while intoxicated) or a parish or municipal ordinance that
19 prohibits operating a vehicle while intoxicated, impaired, or while under the
20 influence of alcohol, drugs, or any controlled dangerous substance, and placed by the
21 prosecuting authority into a pretrial diversion program, shall be entitled to an
22 expungement of the record until five years have elapsed since the date of arrest for
23 that offense.

24 C. The motion to expunge a record of arrest that did not result in a
25 conviction of a misdemeanor or felony offense shall be served pursuant to the
26 provisions of Code of Criminal Procedure Article 979.

27 Art. 977. Motion to expunge a record of arrest and conviction of a misdemeanor
28 offense

29 * * *

1 C. No person shall be entitled to expungement of a record under ~~either~~ any
2 of the following circumstances:

3 (1) The misdemeanor conviction ~~arose from circumstances involving~~ is the
4 result of an arrest for a sex offense as defined in R.S. 15:541, except that an interim
5 expungement shall be available as authorized by the provisions of Article 985.1 of
6 this Code.

7 * * *

8 (3) The misdemeanor conviction was for stalking (R.S. 14:40.2).

9 * * *

10 Art. 978. Motion to expunge record of arrest and conviction of a felony offense

11 * * *

12 B. No expungement shall be granted nor shall a person be permitted to file
13 a motion to expunge the record of arrest and conviction of a felony offense if the
14 person was convicted of the commission or attempted commission of any of the
15 following offenses:

16 (1) ~~Unless otherwise permissible under Article 893(E) of this Code, a~~ A
17 crime of violence as defined by or enumerated in R.S. 14:2(B).

18 * * *

19 (3) ~~Unless otherwise permissible under Article 893(E) of this Code, a~~
20 ~~violation of the Uniform Controlled Dangerous Substances Law, except that~~ A
21 violation of R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A), or a violation of the
22 Uniform Controlled Dangerous Substances Law punishable by imprisonment for a
23 term of more than five years. However, a conviction for possession of a controlled
24 dangerous substance as provided for in R.S. 40:966(C), 967(C), 968(C), ~~or~~ 969(C),
25 or 970(C), or a conviction for possession of a controlled dangerous substance with
26 the intent to distribute may be expunged pursuant to the provisions of this Title.

27 * * *

1 Art. 979. Service of motion to expunge a record

2 A. The clerk of court shall serve notice of the motion of expungement by
3 United States mail or electronically upon the following entities:

- 4 (1) The district attorney of the parish of conviction.
- 5 (2) The Louisiana Bureau of Criminal Identification and Information.
- 6 (3) The arresting law enforcement agency.

7 B. When service is made by United States mail, the motion for expungement
8 shall be accompanied by notice indicating the date the motion was placed in the
9 United States mail for service.

10 Art. 980. Contradictory hearing

11 * * *

12 C. The court may grant an extension of time to file an objection not to
13 exceed ~~sixty days from the date of service of the motion to expunge a record~~ thirty
14 days from the expiration of the original sixty days for a party to object.

15 D. Any objection timely filed shall have a contradictory hearing. If an
16 objection is timely filed, the district attorney, ~~shall file a motion and order setting the~~
17 ~~matter~~ or an objecting party shall request that the matter be set for a contradictory
18 hearing. A notice of hearing shall be served on the defendant and those persons
19 provided for in Article 979 of this Code.

20 * * *

21 Art. 984. Additional requirements for the expungement of records involving the
22 operation of a vehicle while intoxicated; additional fee

23 * * *

24 C. An additional ~~fifty dollar~~ fifty-dollar court cost shall be assessed at this
25 time against the defendant and paid to the Department of Public Safety and
26 Corrections, office of motor vehicles, for the costs of storage and retrieval of the
27 records. The court cost provided by this Paragraph shall be submitted to the
28 department regardless of whether the clerk of court is submitting this matter to the
29 department pursuant to Paragraph B or D of this Article.

1 D. In lieu of forwarding the items listed in Paragraph B of this Article, the
 2 clerk of court may send a copy of the letter issued by the department pursuant to
 3 Subparagraph (B)(1) of Article 894 if the clerk had previously submitted records of
 4 the plea to the department pursuant to that Article.

5 * * *
 6 Art. 986. Forms for the expungement of records

7 * * *

8 C. The clerk of court for any court in the state of Louisiana having criminal
 9 jurisdiction may amend any of the forms provided for in Articles 987, 988, 989, 990,
 10 991, 992, 993, 994, and 995 to provide the appropriate name of the court ordering
 11 an expungement of records.

12 * * *
 13 Art. 988. Motion for fee exemption form to be used

14 " **STATE OF LOUISIANA**
 15 **JUDICIAL DISTRICT FOR THE PARISH OF**

16 _____

17 No.: _____ Division: " _____ "

18 **State of Louisiana**
 19 **vs.**

20 _____

21 **CERTIFICATION OF FEE WAIVER**

22 *To be completed by defendant and submitted to the District Attorney's Office prior*
 23 *to filing. Append completed form to Motion of Expungement at filing only if eligible.*

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

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DEFENDANT NAME	
DATE OF BIRTH	
SSN (last 4 digits)#	XXX-XX-
DATE OF ARREST	
DOCKET NUMBER	
CHARGE	

In accordance with Louisiana Code of Criminal Procedure Article 983, the Office of the District Attorney has reviewed the available databases and determined that *(Check all that apply. To be completed by authorized personnel from the District Attorney's Office and returned within 15 days to defendant.):*

The arrestee listed above has NO FELONY CONVICTIONS.

AND

The arrestee listed above has NO PENDING FELONY CHARGES UNDER A BILL OF INDICTMENT OR INFORMATION.

AND

The arrestee listed above WAS ACQUITTED after trial of all charges derived from the arrest listed above, including any lesser and included offense.

OR

The arrestee listed above WAS NOT PROSECUTED WITHIN THE TIME LIMITATIONS prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure and the arrestee did not participate in a pretrial diversion program for the arrest listed above.

OR

The case involving the arrestee listed above was dismissed or the district attorney declined to prosecute the case prior to the time limitations prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure, and the arrestee did not participate in a pretrial diversion program.

OR

1 The arrestee listed above has been determined to be factually innocent and
2 entitled to compensation for a wrongful conviction pursuant to the provisions
3 of R.S. 15:572.8.

4 **OR**

5 The arrestee listed above is a juvenile who has successfully completed any
6 juvenile drug court program and is exempt from fees pursuant to Code of
7 Criminal Procedure Article 983(G).

8 _____
9 District Attorney or his designee - Print Name

10 _____, 20____ "
11 District Attorney or his designee - Signature Date

12 Art. 989. Motion for expungement forms to be used

13 " **STATE OF LOUISIANA**
14 **JUDICIAL DISTRICT FOR THE PARISH OF**

15 _____

16 No.: _____ Division: " _____ "

17 **State of Louisiana**

18 **vs.**

19 _____

20 **MOTION FOR EXPUNGEMENT**

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

23 **I. DEFENDANT INFORMATION**

24 NAME: _____

25 (*Last, First, MI*)

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

27 GENDER _____ Female _____ Male

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

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

1 RACE: _____
 2 DRIVER LIC.# _____
 3 ARRESTING AGENCY: _____
 4 SID# (if available): _____
 5 ARREST NUMBER (ATN): _____
 6 AGENCY ITEM NUMBER: _____

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 4. Mover was booked and/or charged with the following offenses: (List each
 21 offense booked and charged separately. Please number each item numerically
 22 beginning with number 1. Attach a supplemental sheet, if necessary.)

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

24	ITEM NO. 1	La. Rev. Stat. Ann.	§ _____ : _____
25		Name of the offense	_____
26		() Time expired for prosecution	_____
27			(MM/DD/YYYY)
28		() Not prosecuted for any offense	
29		arising out of this charge.	
30		() Pre-trial Diversion Program.	
31		() DWI Pre-Trial Diversion Program	
32		and 5 years have elapsed since the	
33		date of arrest.	
34		() Charge dismissed	
35		() Found not guilty/judgment of acquittal	

1 **ITEM NO. 2** La. Rev. Stat. Ann. § _____ : _____
 2 Name of the offense _____
 3 () Time expired for prosecution _____
 4 (MM/DD/YYYY)
 5 () Not prosecuted for any
 6 offense arising out of this charge.
 7 () Pre-trial Diversion Program.
 8 () Charge dismissed
 9 () Found not guilty/judgment of acquittal

10 **ITEM NO. 3** La. Rev. Stat. Ann. § _____ : _____
 11 Name of the offense _____
 12 () Time expired for prosecution _____
 13 (MM/DD/YYYY)
 14 () Not prosecuted for any offense
 15 arising out of this charge.
 16 () Pre-trial Diversion Program.
 17 () Charge dismissed
 18 () Found not guilty/judgment of acquittal

19 _____ Yes _____ No **MISDEMEANOR CONVICTIONS**

20 **ITEM NO. 1** La. Rev. Stat. Ann. § _____ : _____
 21 Name of the offense _____
 22 () Conviction set aside/dismissed _____ / _____ / _____
 23 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 24 () More than 5 years have passed
 25 since completion of sentence.

26 **ITEM NO. 2** La. Rev. Stat. Ann. § _____ : _____
 27 Name of the offense _____
 28 () Conviction set aside/dismissed _____ / _____ / _____
 29 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 30 () More than 5 years have passed
 31 since completion of sentence.

32 _____ Yes _____ No **FELONY CONVICTIONS**

33 **ITEM NO. 1** La. Rev. Stat. Ann. § _____ : _____
 34 () Conviction set aside/dismissed _____ / _____ / _____
 35 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
 36 () More than 10 years have passed
 37 since completion of sentence

38 **ITEM NO. 2** La. Rev. Stat. Ann. § _____ : _____
 39 () Conviction set aside/dismissed _____ / _____ / _____
 40 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
 41 () More than 10 years have passed
 42 since completion of sentence

43 _____ Yes _____ No **OPERATING A MOTOR VEHICLE WHILE
 44 INTOXICATED CONVICTIONS**

1 Mover has attached the following:

2 () ~~A copy of the proof~~ certified letter of compliance in accordance with
3 C.Cr.P. Art. 984 from the Department of Public Safety and
4 Corrections, office of motor vehicles, that it has received from the
5 clerk of court a certified copy of the record of the plea, fingerprints
6 of the defendant, and proof of the requirements set forth in C.Cr.P.
7 Art. 556, which shall include the defendant's date of birth, last four
8 digits of social security number, and driver's license number

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

10 Criminal Background Check from the La. State Police/Parish Sheriff
11 dated within the past 30 days (required).

12 Bill(s) of Information (if any).

13 Minute entry showing final disposition of case (if any).

14 Certification Letter from the District Attorney for fee waiver (if
15 eligible).

16 Certification Letter from the District Attorney verifying that the
17 applicant has no convictions or pending applicable criminal charges
18 in the requisite time periods.

19 Certification Letter from the District Attorney verifying that the
20 charges were refused.

21 Certification Letter from the District Attorney verifying that the
22 applicant did not participate in a pretrial diversion program.

23 A copy of the order waiving the sex offender registration and
24 notification requirements.

25 6. Mover was:

26 YES NO Arrested with another individual.

27 The Mover prays that if there is no objection timely filed by the arresting law
28 enforcement agency, the district attorney's office, or the Louisiana Bureau of
29 Criminal Investigation and Information, that an order be issued herein ordering the
30 expungement of the record of arrest and/or conviction set forth above, including all
31 photographs, fingerprints, disposition, or any other such information, which record
32 shall be confidential and no longer considered a public record, nor be made available
33 to other persons, except a prosecutor, member of a law enforcement agency, or a
34 judge who may request such information in writing, certifying that such request is
35 for the purpose of prosecuting, investigating, or enforcing the criminal law, for the
36 purpose of any other statutorily defined law enforcement or administrative duties,

1 or for the purpose of the requirements of sex offender registration and notification
2 pursuant to the provisions of R.S. 15:541 et seq. or as an order of this Court to any
3 other person for good cause shown, or as otherwise authorized by law.

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

7 Respectfully submitted,

8 _____
9 Signature of Attorney for Mover/Defendant

10 _____
11 Attorney for Mover/Defendant Name

12 _____
13 Attorney's Bar Roll No.

14 _____
15 Address

16 _____
17 City, State, ZIP Code

18 _____
19 Telephone Number

20 **If not represented by counsel:**

21 _____
22 Signature of Mover/Defendant

23 _____
24 Mover/Defendant Name

25 _____
26 Address

27 _____
28 City, State, ZIP Code

29 _____
30 Telephone Number "

31 _____
32 _____
33 * * *

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

2 " **STATE OF LOUISIANA**
3 **JUDICIAL DISTRICT FOR THE PARISH OF**

4 _____
5 **No.:** _____ **Division: " _____ "**

6 **State of Louisiana**

7 **vs.**

8 _____

9 **ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD**

10 Considering the Motion for Expungement

11 The hearing conducted and evidence adduced herein, OR

12 Affidavits of No Opposition filed,

13 **IT IS ORDERED, ADJUDGED AND DECREED**

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

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

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

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

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

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

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

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

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

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

1 of any other statutorily defined law enforcement or administrative duties, or for the
2 purpose of the requirements of sex offender registration and notification pursuant to
3 the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other
4 person for good cause shown, or as otherwise authorized by law.

5 NAME: _____
6 (Last, First, MI)

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

8 GENDER: ____ Female ____ Male

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

10 RACE: _____

11 DRIVER LIC.# _____

12 ARRESTING AGENCY: _____

13 SID# (if available): _____

14 ARREST NUMBER (ATN): _____

15 AGENCY ITEM NUMBER: _____

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

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

18 at _____, Louisiana.

19 _____
20 JUDGE

21 **PLEASE SERVE:**

22 1. District Attorney: _____

23 2. Arresting Agency: _____

24 3. Parish Sheriff: _____

25 4. Louisiana Bureau of Criminal Identification and Information _____

26 5. Attorney for Defendant (or defendant) _____

27 6. Clerk of Court _____"

28 * * *

1 Art. 996. Submission of expungement records to office of motor vehicles; forms to
2 be used

3 TRANSMITTAL OF RECORDS FOR EXPUNGEMENT OF DWI
4 PURSUANT TO C.Cr.P. Art. 984

5 _____
6 _____
7 _____

8 _____
9 DATE

10 OFFICE OF MOTOR VEHICLES
11 P.O. BOX 64886
12 BATON ROUGE, LA 70896

13 NAME _____ DRIVERS LICENSE# _____

14 DATE OF BIRTH: _____ OFFENSE DATE: _____

15 SS# _____ DOCKET NO: _____

16 TICKET NO: _____

17 Attached is a certified copy of the court minutes, original/certified copy of
18 fingerprints and proof of the requirements as set forth in the Code of
19 Criminal Procedure Article 556.1. Additionally, a \$50.00 money order or
20 certified funds made payable to the office of motor vehicles, in reference to
21 the above named defendant is attached; or

22 Attached is a copy of the certified letter received from office of motor
23 vehicles indicating that all of the required documents were previously filed
24 in conjunction with the requirements of Article 894 and are on file.
25 Additionally, a \$50.00 money order or certified funds made payable to the
26 office of motor vehicles is attached.

27 NOTE: Do not use this form to submit records of a DWI plea pursuant to Code of
28 Criminal Procedure Article 894(A)(5).

29 Section 2. Code of Criminal Procedure Article 894.5 is hereby enacted to read as
30 follows:

31 Art. 894.5. Submission of DWI - Code of Criminal Procedure Article 894 Plea
32 Records to office of motor vehicles; forms to be used

33 TRANSMITTAL OF RECORDS OF DWI PLEA FOR ARTICLE 894

34 _____
35 _____
36 _____

37 _____
38 DATE

39 OFFICE OF MOTOR VEHICLES
40 P.O. BOX 64886
41 BATON ROUGE, LA 70896

1 NAME DRIVERS LICENSE#

2 DATE OF BIRTH: OFFENSE DATE:

3 SS# DOCKET NO:

4 TICKET NO:

5 Attached is a certified copy of the court minutes, original/certified copy of
6 fingerprints, and proof of the requirements as set forth in the Code of
7 Criminal Procedure Article 556.1, as well as a \$50.00 money order or
8 certified funds made payable to the office of motor vehicles, in reference to
9 the above named defendant.

10 NOTE: Do not use this form to submit records of a DWI expungement pursuant to
11 Code of Criminal Procedure Article 984.

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 284 Original

2015 Regular Session

Lopinto

Abstract: Amends the provisions of law providing for expungements.

Present law provides for the expungement of criminal records of arrest and convictions of certain criminal offenses.

Present law provides that an arrest that did not result in a conviction may be expunged if the time period for prosecution has expired and the person was not prosecuted, the district attorney declined to prosecute any offenses arising out of the arrest, or proceedings were finally disposed of by dismissal, sustaining a motion to quash, or acquittal.

Proposed law retains present law and provides that no person arrested for a violation of operating a vehicle while intoxicated and placed by the prosecuting authority into a pretrial diversion program, shall be entitled to an expungement of the record until five years have elapsed since the date of arrest for that offense.

Proposed law provides that motions to expunge a record of arrest that did not result in a conviction shall be served in the same manner as all other expungement motions.

Proposed law provides that when service of a motion of expungement is made by U.S. mail, the motion shall be accompanied by notice indicating the date the motion was placed in the U.S. mail for service.

Present law provides that a misdemeanor conviction which arose from circumstances involving a sex offense cannot be expunged.

Proposed law changes the provisions of present law to provide that if the misdemeanor conviction is the result of an arrest for a sex offense, the record cannot be expunged.

Proposed law adds that a misdemeanor conviction for the crime of stalking cannot be expunged.

Present law provides that the court shall order the clerk of court to mail to DPS&C, office of motor vehicles, a certified copy of the record of the guilty plea, fingerprints, and proof of eligibility to make the plea when records involve DWI violations.

Proposed law provides that when a defendant who has entered a plea pursuant to present law in a DWI case seeks an expungement, the clerk of court may send a copy of a letter issued by DPS&C in lieu of sending the documents and fingerprints again, if the clerk had previously sent those documents at the time of the plea.

Proposed law authorizes the clerk of court to change the statutory forms to provide for the appropriate name of the court ordering the expungement.

Present law provides that juveniles who successfully participate in a drug court program are exempt from expungement fees.

Proposed law retains this provision of present law and amends form provisions to include participation in drug court programs as eligible for a fee exemption.

Proposed law makes changes to form provisions to make them consistent with present law and to provide for additional identification information and clarity to form language.

(Amends C.Cr.P. Arts. 976, 977(C)(intro. para.) and (1), 978(B)(1) and (3), 979, 980(C) and (D), 984(C), 988, 989, and 992; Adds C.Cr.P. Arts. 894.5, 977(C)(3), 984(D), 986(C), and 996)