

2016 Regular Session

HOUSE BILL NO. 7

BY REPRESENTATIVE PRICE

CRIMINAL/PROCEDURE: Provides with respect to expungement

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 977(A)(introductory paragraph)
3 and 978(A)(introductory paragraph) and (B)(1) and to enact Code of Criminal
4 Procedure Articles 977(A)(3) and 978(A)(3) and (E), relative to expungement; to
5 provide for eligibility for an expungement in cases of factual innocence; to provide
6 for the expungement of certain crimes of violence after a cleansing period; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Articles 977(A)(introductory paragraph) and
10 978(A)(introductory paragraph) and (B)(1) are hereby amended and reenacted and Code of
11 Criminal Procedure Articles 977(A)(3) and 978(A)(3) and (E) are hereby enacted is hereby
12 to read as follows:

13 Art. 977. Motion to expunge a record of arrest and conviction of a misdemeanor
14 offense

15 A. A person may file a motion to expunge his record of arrest and conviction
16 of a misdemeanor offense if ~~either~~ any of the following apply:

17 * * *

18 (3) The person was determined to be factually innocent and entitled to
19 compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8.

20 The person may seek to have the arrest and conviction which formed the basis for

1 the wrongful conviction expunged without the limitations or time delays imposed by
2 the provisions of this Article or any other provision of law to the contrary.

3 * * *

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

5 A. Except as provided in Paragraph B of this Article, a person may file a
6 motion to expunge his record of arrest and conviction of a felony offense if ~~either~~
7 any of the following apply:

8 * * *

9 (3) The person was determined to be factually innocent and entitled to
10 compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8.
11 The person may seek to have the arrest and conviction which formed the basis for the
12 wrongful conviction expunged without the limitations or time delays imposed by the
13 provisions of this Article or any other provision of law to the contrary.

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

18 (1) A crime of violence as defined by or enumerated in R.S. 14:2(B), unless
19 otherwise authorized in Paragraph E of this Article.

20 * * *

21 E.(1) Notwithstanding any other provision of law to the contrary, after a
22 contradictory hearing, the court may order the expungement of the arrest and
23 conviction records of a person pertaining to a conviction of aggravated battery,
24 second degree battery, aggravated assault, aggravated criminal damage to property,
25 simple robbery, purse snatching, or illegal use of weapons or dangerous
26 instrumentalities if all of the following conditions are proven by the petitioner:

27 (a) More than ten years have elapsed since the person completed any
28 sentence, deferred adjudication, or period of probation or parole based on the felony
29 conviction.

- 1 (b) The person has not been convicted of any other criminal offense during
2 the ten-year period.
- 3 (c) The person has no criminal charge pending against him.
- 4 (d) The person has been employed for a period of ten consecutive years.
- 5 (2) The motion filed pursuant to this Paragraph shall include a certification
6 from the district attorney which verifies that, to his knowledge, the applicant has no
7 convictions during the ten-year period and no pending charges under a bill of
8 information or indictment. The motion shall be heard by contradictory hearing as
9 provided by Article 980.

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 7 Original

2016 Regular Session

Price

Abstract: Provides for expungement of records of arrest and conviction for persons determined to be factually innocent and entitled to compensation for a wrongful conviction and allows for the expungement of specific crimes of violence after a cleaning period.

Present law provides for the expungement of misdemeanor arrest and conviction records if either of the following occur:

- (1) The conviction and prosecution dismissed.
- (2) Five years have elapsed since the completion of sentence, probation, or deferred sentence and the applicant has not been convicted of any felony offenses during the five-year period.

Proposed law retains present law and adds an additional criteria if the person was determined to be factually innocent and entitled to compensation for a wrongful conviction.

Present law provides for the expungement of felony arrest and conviction records if either of the following occur:

- (1) The conviction and prosecution dismissed.
- (2) 10 years have elapsed since the completion of sentence, probation, or deferred sentence and the applicant has not been convicted of any offenses during the 10-year period.

Proposed law retains present law and adds an additional criteria if the person was determined to be factually innocent and entitled to compensation for a wrongful conviction.

Present law provides for the expungement of certain misdemeanor and felony arrest and conviction records, but prohibits an expungement of a conviction for a crime of violence.

Proposed law changes present law to allow for the expungement of aggravated battery, second degree battery, aggravated assault, aggravated criminal damage to property, simple robbery, purse snatching, and illegal use of weapons or dangerous instrumentalities if more than 10 years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction, and the person has not been convicted of any other criminal offense during the 10-year period, has no criminal charge pending against him, and has been employed for a period of 10 consecutive years.

(Amends C.Cr.P. Arts. 977(A)(intro. para.) and 978(A)(intro. para.) and (B)(1); Adds C.Cr.P. Arts. 977(A)(3) and 978(A)(3) and (E))