

2022 Regular Session

SENATE BILL NO. 240

BY SENATOR JACKSON

CRIMINAL RECORDS. Provides relative to termination of probation and expungements for crimes of violence. (8/1/22)

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 978(E) and to enact Code of Criminal Procedure Art. 897(C), relative to expungement; to provide for expungement of crimes of violence when probation is terminated or sentence is suspended under certain circumstances; to provide for termination of probation for a crime of violence after certain conditions are met; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 978(E) is hereby amended and reenacted and to enact Code of Criminal Procedure Art. 897(C) to read as follows:

Art. 897. Termination of probation or suspended sentence; discharge of defendant

* * *

C. When the defendant is convicted of a crime of violence, as defined by R.S. 14:2(B), and has been placed on probation, the court may terminate the defendant's probation early or suspend sentence and discharge him after five years from the date of sentencing when all of the following conditions are met:

(1) The person has not been convicted of any other criminal offense

1 **during the five-year period.**

2 **(2) The person has no criminal charge pending against him.**

3 **(3) The person has been gainfully employed for five consecutive years.**

4 * * *

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

6 * * *

7 E.(1) Notwithstanding any other provision of law to the contrary, after a
8 contradictory hearing, the court may order the expungement of the arrest and
9 conviction records of a person pertaining to a conviction of ~~aggravated battery,~~
10 ~~second degree battery, aggravated criminal damage to property, simple robbery,~~
11 ~~purse snatching, or illegal use of weapons or dangerous instrumentalities~~ **a crime of**
12 **violence as defined by R.S. 14:2(B)**, if all of the following conditions are proven
13 by the petitioner:

14 (a) More than ~~ten~~ **five** years have elapsed since the person ~~completed any~~
15 ~~sentence, deferred adjudication, or period of probation or parole based on the felony~~
16 ~~conviction~~ **was sentenced or deferred adjudication.**

17 (b) The person has not been convicted of any other criminal offense during
18 the ~~ten~~ **five**-year period.

19 (c) The person has no criminal charge pending against him.

20 (d) ~~Repealed by Acts 2020, No. 71, §2, eff. August 1, 2020~~ **The person has**
21 **been gainfully employed for five consecutive years.**

22 (2) The motion filed pursuant to this Paragraph shall include a certification
23 from the district attorney which verifies that, to his knowledge, the applicant has no
24 convictions during the ~~ten~~ **five**-year period and no pending charges under a bill of
25 information or indictment. The motion shall be heard by contradictory hearing as
26 provided by Article 980.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.

DIGEST

SB 240 Original

2022 Regular Session

Jackson

Present law provides that a defendant may be discharged from probation for a felony offense after one year in a felony under certain conditions, or in the case of a misdemeanor, at any time, under certain conditions.

Proposed law retains present law and provides that a defendant may be discharged from probation for a crime of violence after five years, if all of the following conditions are met:

- (1) No convictions within the five-year period.
- (2) No pending charges at the time of the motion.
- (3) Gainful employment for a period of five years.

Present law provides that certain crimes of violence may be expunged after 10 years from completion of the sentence when certain conditions are met.

Proposed law deletes present law and provides that all crimes of violence may be expunged after five years from the date of sentencing or adjudication when all of the following conditions are met:

- (1) No convictions within the five-year period.
- (2) No pending charges at the time of the motion.
- (3) Gainful employment for a period of five years.

Effective August 1, 2022.

(Amends C.Cr.P. Art. 978(E); adds C.Cr.P. Art 897(C))