

2018 Regular Session

HOUSE BILL NO. 377

BY REPRESENTATIVE HAZEL

CRIMINAL/PROCEDURE: Provides relative to expungements

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 989 and 994, relative to  
3 expungement; to provide with respect to expungement forms; to extend the amount  
4 of time that a background check may be used in a motion for an expungement; and  
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Articles 989 and 994 are hereby amended  
8 and reenacted to read as follows:

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

10 STATE OF LOUISIANA  
11 JUDICIAL DISTRICT FOR THE PARISH OF

12 \_\_\_\_\_  
13 No.: \_\_\_\_\_ Division: " \_\_\_\_\_ "

14 State of Louisiana

15 vs.

16 \_\_\_\_\_

17 MOTION FOR EXPUNGEMENT

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

20 I. DEFENDANT INFORMATION

1 NAME: \_\_\_\_\_  
2 (Last, First, MI)

3 DOB: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (MM/DD/YYYY)

4 GENDER \_\_\_\_\_ Female \_\_\_\_\_ Male

5 SSN (last 4 digits): XXX-XX-\_\_\_\_\_

6 RACE: \_\_\_\_\_

7 DRIVER LIC.# \_\_\_\_\_

8 ARRESTING AGENCY: \_\_\_\_\_

9 SID# (if available): \_\_\_\_\_

10 ARREST NUMBER: \_\_\_\_\_

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

14 **II. ARREST INFORMATION**

15 1. Mover was arrested on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (MM/DD/YYYY)

16 2. \_\_\_\_\_ YES \_\_\_\_\_ NO A supplemental sheet with arrests and/or  
17 convictions is attached after page 2 of this  
18 Motion.

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

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

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

2            **ITEM NO. 1**        La. Rev. Stat. Ann.        § \_\_\_\_\_ : \_\_\_\_\_

3                                Name of the offense        \_\_\_\_\_

4                                ( ) Time expired for prosecution \_\_\_\_\_

5                                                                                (MM/DD/YYYY)

6                                ( ) Not prosecuted for any offense

7                                                        arising out of this charge.

8                                ( ) Pre-trial Diversion Program.

9                                ( ) DWI Pre-Trial Diversion Program

10                                                        and 5 years have elapsed since the

11                                                        date of arrest.

12                                ( ) Charge dismissed

13                                ( ) Found not guilty/judgment of acquittal

14            **ITEM NO. 2**        La. Rev. Stat. Ann.        § \_\_\_\_\_ : \_\_\_\_\_

15                                Name of the offense        \_\_\_\_\_

16                                ( ) Time expired for prosecution \_\_\_\_\_

17                                                                                (MM/DD/YYYY)

18                                ( ) Not prosecuted for any

19                                                        offense arising out of this charge.

20                                ( ) Pre-trial Diversion Program.

21                                ( ) Charge dismissed

22                                ( ) Found not guilty/judgment of acquittal

23            **ITEM NO. 3**        La. Rev. Stat. Ann.        § \_\_\_\_\_ : \_\_\_\_\_

24                                Name of the offense        \_\_\_\_\_

25                                ( ) Time expired for prosecution \_\_\_\_\_

26                                                                                (MM/DD/YYYY)

27                                ( ) Not prosecuted for any offense

28                                                        arising out of this charge.

29                                ( ) Pre-trial Diversion Program.

- 1                   ( ) Charge dismissed
- 2                   ( ) Found not guilty/judgment of acquittal

3           \_\_\_ Yes \_\_\_ No   **MISDEMEANOR CONVICTIONS**

4           **ITEM NO. 1**      La. Rev. Stat. Ann.               § \_\_\_\_\_ : \_\_\_\_\_

5                            Name of the offense                       \_\_\_\_\_

6                   ( ) Conviction set aside/dismissed   \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

7                            pursuant to C.Cr.P. Art. 894(B)       (MM/DD/YYYY)

8                   ( ) More than 5 years have passed

9                            since completion of sentence.

10          **ITEM NO. 2**      La. Rev. Stat. Ann.               § \_\_\_\_\_ : \_\_\_\_\_

11                            Name of the offense                       \_\_\_\_\_

12                   ( ) Conviction set aside/dismissed   \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

13                            pursuant to C.Cr.P. Art. 894(B)       (MM/DD/YYYY)

14                   ( ) More than 5 years have passed

15                            since completion of sentence.

16          \_\_\_ Yes \_\_\_ No   **FELONY CONVICTIONS**

17          **ITEM NO. 1**      La. Rev. Stat. Ann.               § \_\_\_\_\_ : \_\_\_\_\_

18                            ( ) Conviction set aside/dismissed   \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

19                            pursuant to C.Cr.P. Art. 893(E)       (MM/DD/YYYY)

20                   ( ) More than 10 years have passed

21                            since completion of sentence

22          **ITEM NO. 2**      La. Rev. Stat. Ann.               § \_\_\_\_\_ : \_\_\_\_\_

23                            ( ) Conviction set aside/dismissed   \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_

24                            pursuant to C.Cr.P. Art. 893(E)       (MM/DD/YYYY)

25                   ( ) More than 10 years have passed

26                            since completion of sentence

27          \_\_\_ Yes \_\_\_ No   **OPERATING A MOTOR VEHICLE WHILE**

28                            **INTOXICATED CONVICTIONS**

29          Mover has attached the following:

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

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

- 8                      Criminal Background Check from the La. State Police/Parish Sheriff  
9                    dated within the past ~~30~~ 60 days (required).
- 10                     Bill(s) of Information (if any).
- 11                     Minute entry showing final disposition of case (if any).
- 12                     Certification Letter from the District Attorney for fee waiver (if  
13                    eligible).
- 14                     Certification Letter from the District Attorney verifying that the  
15                    applicant has no convictions or pending applicable criminal charges  
16                    in the requisite time periods.
- 17                     Certification Letter from the District Attorney verifying that the  
18                    charges were refused.
- 19                     Certification Letter from the District Attorney verifying that the  
20                    applicant did not participate in a pretrial diversion program.
- 21                     A copy of the order waiving the sex offender registration and  
22                    notification requirements.
- 23                     Documentation verifying that the mover has been employed for ten  
24                    consecutive years.
- 25                     A copy of the court order determination of factual innocence and  
26                    order of compensation for a wrongful conviction pursuant to the  
27                    provisions of R.S. 15:572.8 if applicable.

28                    The Mover prays that if there is no objection timely filed by the arresting law  
29                    enforcement agency, the district attorney's office, or the Louisiana Bureau of

1 Criminal Investigation and Information, that an order be issued herein ordering the  
 2 expungement of the record of arrest and/or conviction set forth above, including all  
 3 photographs, fingerprints, disposition, or any other such information, which record  
 4 shall be confidential and no longer considered a public record, nor be made available  
 5 to other persons, except a prosecutor, member of a law enforcement agency, or a  
 6 judge who may request such information in writing, certifying that such request is  
 7 for the purpose of prosecuting, investigating, or enforcing the criminal law, for the  
 8 purpose of any other statutorily defined law enforcement or administrative duties,  
 9 or for the purpose of the requirements of sex offender registration and notification  
 10 pursuant to the provisions of R.S. 15:541 et seq. or as an order of this Court to any  
 11 other person for good cause shown, or as otherwise authorized by law.

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

15 Respectfully submitted,

16 \_\_\_\_\_  
 17 Signature of Attorney for Mover/Defendant

18 \_\_\_\_\_  
 19 Attorney for Mover/Defendant Name

20 \_\_\_\_\_  
 21 Attorney's Bar Roll No.

22 \_\_\_\_\_  
 23 Address

24 \_\_\_\_\_  
 25 City, State, ZIP Code

26 \_\_\_\_\_  
 27 Telephone Number

28 **If not represented by counsel:**

29 \_\_\_\_\_  
 30 Signature of Mover/Defendant

31 \_\_\_\_\_  
 32 Mover/Defendant Name

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City, State, ZIP Code

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\* \* \*

Art. 994. Motion for interim expungement form to be used

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

**No.:** \_\_\_\_\_ **Division: "** \_\_\_\_\_ **"**

**State of Louisiana  
vs.**

\_\_\_\_\_  
**MOTION FOR INTERIM EXPUNGEMENT**

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

**I. DEFENDANT INFORMATION**

NAME: \_\_\_\_\_  
(Last, First, MI)

DOB: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (MM/DD/YYYY)

GENDER \_\_\_\_\_ Female \_\_\_\_\_ Male

SSN (last 4 digits): XXX-XX-\_\_\_\_\_

RACE: \_\_\_\_\_

DRIVER LIC.# \_\_\_\_\_

ARRESTING AGENCY: \_\_\_\_\_

SID# (if available): \_\_\_\_\_

ARREST NUMBER: \_\_\_\_\_

Mover is entitled to an interim expungement of the entry of the felony charge(s) of his arrest pursuant to Louisiana Code of Criminal Procedure Article 985.1 and states the following in support:

**II. ARREST INFORMATION**

1. Mover was arrested on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (MM/DD/YYYY)

- 1           2.     \_\_\_\_\_ YES \_\_\_\_\_ NO           A supplemental sheet with arrests and/or  
 2                                                                                   convictions is attached after page 2 of this  
 3                                                                                   Motion.  
 4           3.     Mover was:  
 5                                                                                   Arrested for a felony offense.  
 6                 \_\_\_\_\_ YES \_\_\_\_\_ NO           Convicted of a misdemeanor arising out of  
 7                 \_\_\_\_\_ YES \_\_\_\_\_ NO           that felony offense.
- 8           4.     Mover was booked and/or charged with the following offenses: (List each  
 9                   offense booked and charged separately. Attach a supplemental sheet, if  
 10                   necessary.)

11           \_\_\_\_ Yes \_\_\_\_ No   **FELONY ARREST THAT RESULTED IN A**  
 12                                                                                   **MISDEMEANOR CONVICTION**

13           **ITEM NO. 1**           La. Rev. Stat. Ann.                           § \_\_\_\_\_ : \_\_\_\_\_  
 14                                                                                   Name of the offense                             \_\_\_\_\_  
 15                                                                                                                                                   \_\_\_\_\_  
 16                                                                                                                                                   (MM/DD/YYYY)  
 17                                                                                   ( ) Felony charge dismissed.  
 18                                                                                   ( ) Convicted of misdemeanor offense arising out of  
 19                                                                                           felony arrest.

20           5.     Mover has attached to his Motion a criminal background check from the  
 21                   Louisiana State Police/Parish Sheriff dated within the past ~~thirty~~ sixty days  
 22                   (required).

23                           The mover prays that if there is no objection timely filed by the arresting law  
 24                   enforcement agency, the District Attorney's Office, or the Louisiana Bureau of  
 25                   Criminal Identification and Information, that an order be issued herein ordering the  
 26                   Louisiana Bureau of Identification and Investigation to expunge the entry of the  
 27                   felony charge(s) listed contained in the criminal history; and further that the Clerk  
 28                   of Court, District Attorney, and arresting law enforcement agency expunge the entry  
 29                   of those felony charge(s) from any public indices.

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

33                                                                                           Respectfully submitted,  
 34                                                                                                                   \_\_\_\_\_  
 35                                                                                                                   Signature of Attorney for Mover/Defendant  
 36                                                                                                                   \_\_\_\_\_  
 37                                                                                                                   Attorney for Mover/Defendant Name  
 38                                                                                                                   \_\_\_\_\_  
 39                                                                                                                   Attorney's Bar Roll No.

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



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Address

\_\_\_\_\_  
City, State, ZIP Code

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Telephone Number

**If not represented by counsel:**

\_\_\_\_\_  
Signature of Mover/Defendant

\_\_\_\_\_  
Mover/Defendant Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, ZIP Code

\_\_\_\_\_  
Telephone Number

**PLEASE SERVE:**

- 1. District Attorney \_\_\_\_\_
- 2. Louisiana Bureau of Criminal Identification and Information \_\_\_\_\_
- 3. Arresting Agency \_\_\_\_\_ "

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 377 Original

2018 Regular Session

Hazel

**Abstract:** Extends the amount of time a background check may be used in motions for expungement.

Present law provides for the expungement of criminal records and provides for the forms which shall be used to seek an expungement.

Proposed law amends the present law forms for a motion for expungement and a motion for interim expungement to extend from 30 days to 60 days the amount of time that a background check may be used in seeking an expungement.

(Amends C.Cr.P. Arts. 989 and 994)