

2018 Regular Session

HOUSE BILL NO. 377

BY REPRESENTATIVES HAZEL, BACALA, BAGNERIS, CARPENTER, DUPLESSIS,
HODGES, HOWARD, JAMES, MACK, MARCELLE, MARINO, NORTON,
PYLANT, AND STEFANSKI

CRIMINAL/PROCEDURE: Provides relative to expungements

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 989, 992, 993, and 994, relative
3 to expungement; to provide with respect to expungement forms; to make technical
4 changes to the forms; to extend the amount of time that a background check may be
5 used in a motion for an expungement; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Articles 989, 992, 993, and 994 are hereby
8 amended 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:

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If not represented by counsel:

Signature of Mover/Defendant

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 ~~Item(s) No.~~ 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.

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

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

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

19 NAME: _____
20 (Last, First, MI)

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

22 GENDER: ____ Female ____ Male

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

24 RACE: _____

25 DRIVER LIC.# _____

26 ARRESTING AGENCY: _____

27 SID# (if available): _____

28 ARREST NUMBER (ATN): _____

29 AGENCY ITEM NUMBER: _____

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

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

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SUPPLEMENTAL SHEET

___ Yes ___ No MISDEMEANOR CONVICTIONS

ITEM 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.

ITEM 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.

ITEM 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.

ITEM 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 Art. 994. Motion for interim 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 **MOTION FOR INTERIM EXPUNGEMENT**

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

12 **I. DEFENDANT INFORMATION**

13 NAME: _____
14 (Last, First, MI)

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

16 GENDER _____ Female _____ Male

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

18 RACE: _____

19 DRIVER LIC.# _____

20 ARRESTING AGENCY: _____

21 SID# (if available): _____

22 ARREST NUMBER (ATN): _____

23 AGENCY ITEM NO. _____

24 Mover is entitled to an interim expungement of the entry of the felony
25 charge(s) of his arrest pursuant to Louisiana Code of Criminal Procedure Article
26 985.1 and states the following in support:

27 **II. ARREST INFORMATION**

28 1. Mover was arrested on _____ / _____ / _____ (MM/DD/YYYY)

29 2. _____ YES _____ NO A supplemental sheet with arrests and/or
30 convictions is attached after page 2 of this
31 Motion.

32 3. Mover was:
33 _____ YES _____ NO Arrested for a felony offense.
34 _____ YES _____ NO Convicted of a misdemeanor arising out of
35 that felony offense.

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

4 Yes No **FELONY ARREST THAT RESULTED IN A**
5 **MISDEMEANOR CONVICTION**

6 **ITEM NO. 1** La. Rev. Stat. Ann. § _____ : _____
7 Name of the offense _____
8 _____
9 (MM/DD/YYYY)

- 10 () Felony charge dismissed.
11 () Convicted of misdemeanor offense arising out of
12 felony arrest.

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

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

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

26 Respectfully submitted,

27 _____
28 Signature of Attorney for Mover/Defendant

29 _____
30 Attorney for Mover/Defendant Name

31 _____
32 Attorney's Bar Roll No.

33 _____
34 Address

35 _____
36 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 Reengrossed 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. Proposed law also makes technical corrections to present law motion for expungement forms.

(Amends C.Cr.P. Arts. 989, 992, 993, and 994)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

- 1. Make technical corrections to present law expungement forms.