

2018 Regular Session

ACT No. 711

HOUSE BILL NO. 377

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

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

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

3 **I. DEFENDANT INFORMATION**

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

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

7 GENDER _____ Female _____ Male

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

9 RACE: _____

10 DRIVER LIC.# _____

11 ARRESTING AGENCY: _____

12 SID# (if available): _____

13 ARREST NUMBER (ATN): _____

14 AGENCY ITEM NO. _____

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

18 **II. ARREST INFORMATION**

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

20 2. _____ YES _____ NO A supplemental sheet with arrests and/or
21 convictions is attached after page 2 of this
22 Motion.

23 3. Mover was:
24 _____ YES _____ NO Arrested, but it did not result in conviction
25 _____ YES _____ NO Convicted of and seeks to expunge a
26 misdemeanor

27 _____ YES _____ NO Convicted of and seeks to expunge a felony

1 Name of the offense _____

2 () Time expired for prosecution _____

3 (MM/DD/YYYY)

4 () Not prosecuted for any offense

5 arising out of this charge.

6 () Pre-trial Diversion Program.

7 () Charge dismissed

8 () Found not guilty/judgment of acquittal

9 Yes No **MISDEMEANOR CONVICTIONS**

10 **~~ITEM NO. 1~~** 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 **~~ITEM NO. 2~~** La. Rev. Stat. Ann. § _____ : _____

17 Name of the offense _____

18 () Conviction set aside/dismissed ____ / ____ / ____

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

20 () More than 5 years have passed

21 since completion of sentence.

22 Yes No **FELONY CONVICTIONS**

23 **~~ITEM NO. 1~~** La. Rev. Stat. Ann. § _____ : _____

24 () Conviction set aside/dismissed ____ / ____ / ____

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

26 () More than 10 years have passed

27 since completion of sentence

28 **~~ITEM NO. 2~~** La. Rev. Stat. Ann. § _____ : _____

29 () Conviction set aside/dismissed ____ / ____ / ____

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

1 () More than 10 years have passed
2 since completion of sentence

3 Yes No **OPERATING A MOTOR VEHICLE WHILE**
4 **INTOXICATED CONVICTIONS**

5 Mover has attached the following:

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

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

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

- 1 A copy of the court order determination of factual innocence and
- 2 order of compensation for a wrongful conviction pursuant to the
- 3 provisions of R.S. 15:572.8 if applicable.

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

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

20 Respectfully submitted,

21 _____
22 Signature of Attorney for Mover/Defendant

23 _____
24 Attorney for Mover/Defendant Name

25 _____
26 Attorney's Bar Roll No.

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28 Address

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30 City, State, ZIP Code

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32 Telephone Number

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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 Law
- 4 which is ineligible to be expunged.
- 5 An offense currently listed as a sex offense that requires registration
- 6 pursuant to La. Rev. Stat. Ann. 15:540 et seq., at the time the Motion
- 7 was filed, regardless of whether the duty to register was ever
- 8 imposed.
- 9 An offense defined or enumerated as a "crime of violence" pursuant
- 10 to La. Rev. Stat. Ann. 14:2(B) at the time the Motion was filed.
- 11 The arrest and conviction being sought to have expunged is for
- 12 operating a motor vehicle while intoxicated and a copy of the proof
- 13 from the Department of Public Safety and Corrections, office of
- 14 motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).
- 15 Mover has had another record of misdemeanor conviction expunged
- 16 during the previous five-year period.
- 17 The record of arrest and conviction which Mover seeks to have
- 18 expunged is for operating a motor vehicle while intoxicated and
- 19 Mover has had another record of arrest and misdemeanor conviction
- 20 expunged during the previous ten-year period.
- 21 Mover has had another record of felony conviction expunged during
- 22 the previous fifteen-year period.
- 23 Mover was convicted of a misdemeanor which arose from
- 24 circumstances involving a sex offense as defined in R.S. 15:541.
- 25 Mover was convicted of misdemeanor offense of domestic abuse
- 26 battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
- 27 Mover did not complete pretrial diversion.
- 28 The charges against the mover were not dismissed or refused.
- 29 Mover's felony conviction was not set aside and dismissed pursuant
- 30 to C.Cr.P. Art. 893(E).

- 1 Mover's felony conviction was not set aside and dismissed pursuant
2 to C.Cr.P. Art. 894(B).
- 3 Mover completed a DWI pretrial diversion program, but five years
4 have not elapsed since the mover's date of arrest.
- 5 Mover's conviction for felony carnal knowledge of a juvenile is not
6 defined as misdemeanor carnal knowledge of a juvenile had the
7 mover been convicted on or after August 15, 2001.
- 8 Mover has not been employed for ten consecutive years as required
9 by ~~Article~~ C.Cr.P. Art. 978(E)(1)(d).
- 10 Mover was not convicted of a crime that would be eligible for
11 expungement as required by ~~Article~~ C.Cr.P. Art. 978(E)(1).
- 12 Mover has criminal charges pending against him.
- 13 Mover was convicted of a criminal offense during the ten-year
14 period.
- 15 Denial for any other reason provided by law with attached reasons for
16 denial.
- 17 **THE MOTION IS HEREBY GRANTED** for ~~Item(s)~~ No. No(s).
18 _____ and all agencies are ordered to expunge the record of
19 arrest/conviction and any photographs, fingerprints, or any other such
20 information of any kind maintained in connection with the
21 Arrest(s)/Conviction(s) in the above-captioned matter, which record shall be
22 confidential and no longer considered a public record, nor be available to
23 other persons except a prosecutor, member of a law enforcement agency, or
24 a judge who may request such information in writing certifying that such
25 request is for the purpose of prosecuting, investigating, or enforcing the
26 criminal law, for the purpose of any other statutorily defined law
27 enforcement or administrative duties, or for the purpose of the requirements
28 of sex offender registration and notification pursuant to the provisions of R.S.
29 15:541 et seq. or upon an order of this Court to any other person for good
30 cause shown, or as otherwise authorized by law.

THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT

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

NAME: _____
(Last, First, MI)

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

GENDER: ____ Female ____ Male

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

RACE: _____

DRIVER LIC.# _____

ARRESTING AGENCY: _____

SID# (if available): _____

ARREST NUMBER (ATN): _____

AGENCY ITEM NUMBER: _____

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

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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 **ITEM NO.** ____ La. Rev. Stat. Ann. § _____ : _____
 2 Name of the offense _____
 3 () Conviction set aside/dismissed _____ / _____ / _____
 4 (MM/DD/YYYY)
 5 pursuant to C.Cr.P. Art. 894(B)
 6 () More than 5 years have passed
 7 since completion of sentence.

8 **ITEM NO.** ____ La. Rev. Stat. Ann. § _____ : _____
 9 Name of the offense _____
 10 () Conviction set aside/dismissed _____ / _____ / _____
 11 (MM/DD/YYYY)
 12 pursuant to C.Cr.P. Art. 894(B)
 13 () More than 5 years have passed
 14 since completion of sentence.

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

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

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

1 **ITEM NO.** ____ La. Rev. Stat. Ann. § ____ : ____
 2 Name of the offense _____
 3 () Conviction set aside/dismissed ____ / ____ / ____
 4 (MM/DD/YYYY)
 5 pursuant to C.Cr.P. Art. 894(B)
 6 () More than 5 years have passed
 7 since completion of sentence.

8 **SUPPLEMENTAL SHEET**

9 ____ **Yes** ____ **No** **FELONY CONVICTIONS**

10 **ITEM NO.** ____ La. Rev. Stat. Ann. § ____ : ____
 11 Name of the offense _____
 12 () Conviction set aside/dismissed ____ / ____ / ____
 13 (MM/DD/YYYY)
 14 pursuant to C.Cr.P. Art. 893(E)
 15 () More than 10 years have passed
 16 since completion of sentence

17 **ITEM NO.** ____ La. Rev. Stat. Ann. § ____ : ____
 18 Name of the offense _____
 19 () Conviction set aside/dismissed ____ / ____ / ____
 20 (MM/DD/YYYY)
 21 pursuant to C.Cr.P. Art. 893(E)
 22 () More than 10 years have passed
 23 since completion of sentence

24 **ITEM NO.** ____ La. Rev. Stat. Ann. § ____ : ____
 25 Name of the offense _____
 26 () Conviction set aside/dismissed ____ / ____ / ____
 27 (MM/DD/YYYY)
 28 pursuant to C.Cr.P. Art. 893(E)
 29 () More than 10 years have passed
 30 since completion of sentence

1	ITEM NO. ____	La. Rev. Stat. Ann.	§ _____ :
2		Name of the offense	_____
3		() Conviction set aside/dismissed	_____/_____/_____
4			(MM/DD/YYYY)
5		pursuant to C.Cr.P. Art. 893(E)	
6		() More than 10 years have passed	
7		since completion of sentence	
8	ITEM NO. ____	La. Rev. Stat. Ann.	§ _____ :
9		Name of the offense	_____
10		() Conviction set aside/dismissed	_____/_____/_____
11			(MM/DD/YYYY)
12		pursuant to C.Cr.P. Art. 893(E)	
13		() More than 10 years have passed	
14		since completion of sentence	
15	ITEM NO. ____	La. Rev. Stat. Ann.	§ _____ :
16		Name of the offense	_____
17		() Conviction set aside/dismissed	_____/_____/_____
18			(MM/DD/YYYY)
19		pursuant to C.Cr.P. Art. 893(E)	
20		() More than 10 years have passed	
21		since completion of sentence	
22	ITEM NO. ____	La. Rev. Stat. Ann.	§ _____ :
23		Name of the offense	_____
24		() Conviction set aside/dismissed	_____/_____/_____
25			(MM/DD/YYYY)
26		pursuant to C.Cr.P. Art. 893(E)	
27		() More than 10 years have passed	
28		since completion of sentence	
29	ITEM NO. ____	La. Rev. Stat. Ann.	§ _____ :
30		Name of the offense	_____
31		() Conviction set aside/dismissed	_____/_____/_____
32			(MM/DD/YYYY)
33		pursuant to C.Cr.P. Art. 893(E)	
34		() More than 10 years have passed	
35		since completion of sentence	

1 **ITEM NO.** ____ La. Rev. Stat. Ann. § _____ : _____

2 Name of the offense _____

3 () Conviction set aside/dismissed _____ / _____ / _____
4 (MM/DD/YYYY)

5 pursuant to C.Cr.P. Art. 893(E)

6 () More than 10 years have passed

7 since completion of sentence

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

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

11
12 **No.:** _____ **Division: "** _____ **"**

13 **State of Louisiana**

14 **vs.**

15 _____
16 **MOTION FOR INTERIM EXPUNGEMENT**

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

19 **I. DEFENDANT INFORMATION**

20 NAME: _____
21 *(Last, First, MI)*

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

23 GENDER _____ Female _____ Male

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

25 RACE: _____

26 DRIVER LIC.# _____

27 ARRESTING AGENCY: _____

28 SID# (if available): _____

29 ARREST NUMBER (ATN): _____

30 AGENCY ITEM NO. _____

31 Mover is entitled to an interim expungement of the entry of the felony
32 charge(s) of his arrest pursuant to Louisiana Code of Criminal Procedure Article
33 985.1 and states the following in support:

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

1 **II. ARREST INFORMATION**

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

3 2. _____ YES _____ NO A supplemental sheet with arrests and/or
4 convictions is attached after page 2 of this
5 Motion.

6 3. Mover was:

7 _____ YES _____ NO

Arrested for a felony offense.

8 _____ YES _____ NO

9 Convicted of a misdemeanor arising out of
that felony offense.

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

13 _____ Yes _____ No **FELONY ARREST THAT RESULTED IN A**
14 **MISDEMEANOR CONVICTION**

15 **ITEM NO. 1** La. Rev. Stat. Ann. § _____ : _____
16 Name of the offense _____
17 _____
18 (MM/DD/YYYY)

19 () Felony charge dismissed.

20 () Convicted of misdemeanor offense arising out of
21 felony arrest.

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

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

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

35 Respectfully submitted,

36 _____
37 Signature of Attorney for Mover/Defendant

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Attorney for Mover/Defendant Name

Attorney's Bar Roll No.

Address

City, State, ZIP Code

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 _____

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____