
DIGEST

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HB 241 Engrossed

2020 Regular Session

James

Abstract: Provides relative to the limitation on the number of expungements a person may obtain in a certain period of time and the prohibition on persons who are incarcerated from filing a motion for an expungement.

Present law (C.Cr.P. Art. 977) provides that a person may file a motion to expunge his record of arrest and conviction of certain **misdemeanor offenses** if the conviction was set aside and the prosecution was dismissed pursuant to present law (C.Cr.P. Art. 894) or more than five years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole, and the person has not been convicted of any felony offense during the five-year period and has no felony charge pending against him.

Present law (C.Cr.P. Art. 978) provides that a person may file a motion to expunge his record of arrest and conviction of certain **felony offenses** if the conviction was set aside and the prosecution was dismissed pursuant to present law (C.Cr.P. Art. 893); more than ten 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 ten-year period and has no criminal charge pending against him; or the person is entitled to a first offender pardon for the offense, provided that the offense is not defined as a crime of violence or a sex offense.

Present law (C.Cr.P. Art. 977(D)) provides that the expungement of a record of arrest and conviction of a **misdemeanor offense** shall occur only once with respect to any person during a five-year period, except under certain circumstances. Present law further provides that the expungement of a record of arrest and conviction of a **misdemeanor DWI offense** shall occur only once with respect to any person during a ten-year period.

Present law (C.Cr.P. Art. 978(D)) provides that the expungement of a record of arrest and conviction of a **felony offense** shall occur only once with respect to any person during a 15-year period, except under certain circumstances.

Proposed law does all of the following:

- (1) Repeals the present law (C.Cr.P. Art. 977(D)) limitation on obtaining an expungement once every five years for an arrest and conviction of a **misdemeanor offense** and once every ten years for a **misdemeanor DWI offense**.

- (2) Repeals the present law (C.Cr.P. Art. 978(D)) limitation on obtaining an expungement once every 15 years for an arrest and conviction of a **felony offense**.

Present law (C.Cr.P. Art. 975) provides that any person in the custody of the Dept. of Public Safety and Corrections or incarcerated in any correctional facility shall not be permitted to file a motion to expunge a record of arrest which did not result in a conviction or to expunge a record of an arrest and conviction of a misdemeanor or a felony offense.

Proposed law amends present law to limit the present law prohibition to only those persons who are in the physical custody of the Dept. of Public Safety and Corrections and serving a sentence at hard labor.

Present law provides for forms that are required to be used for motions seeking an expungement and for orders granting or denying expungement.

Proposed law amends the present law forms to conform with changes made in proposed law.

(Amends C.Cr.P. Arts. 975 and 992; Repeals C.Cr.P. Arts. 977(D) and 978(D))