
HOUSE COMMITTEE AMENDMENTS

Amendments proposed by House Committee on Administration of Criminal Justice to Original House Bill No. 55 by Representative Lopinto

1 AMENDMENT NO. 1

2 On page 1, line 3, change "993" to "995"

3 AMENDMENT NO. 2

4 On page 1, line 19, after "record;" and before "and" insert "to provide for interim the interim
5 expungement of certain arrests from criminal history records;"

6 AMENDMENT NO. 3

7 On page 2, line 3, change "993" to "995"

8 AMENDMENT NO. 4

9 On page 5, line 11, after "conviction." delete the remainder of the line and delete lines 12
10 and 13 in their entirety

11 AMENDMENT NO. 5

12 On page 5, between lines 20 and 21, insert the following:

13 "C. The person obtaining the expungement shall send notice of the order of
14 expungement by registered or certified mail with return receipt requested and the
15 private third party shall not require a certified or courtesy copy of the order and
16 judgment of expunging of the record."

17 AMENDMENT NO. 6

18 On page 5, at the beginning of line 21, change "C." to "D."

19 AMENDMENT NO. 7

20 On page 5, at the beginning of line 25, change "D." to "E."

21 AMENDMENT NO. 8

22 On page 6, line 14, after "prosecute" delete the remainder of the line

23 AMENDMENT NO. 9

24 On page 6, delete line 15 in its entirety and insert "any offense arising out of that arrest."

25 AMENDMENT NO. 10

26 On page 6, line 26, after "any" and before "offense" insert "felony"

27 AMENDMENT NO. 11

28 On page 7, line 1, after "no" and before "convictions" insert "felony"

1 AMENDMENT NO. 12

2 On page 7, line 2, after "pending" and before "charges" insert "felony"

3 AMENDMENT NO. 13

4 On page 7, delete lines 6 through 9 in their entirety and insert the following:

5 "C. No person shall be entitled to expungement of a record if either of the
6 following occur:

7 (1) The misdemeanor conviction arose from circumstances involving a sex
8 offense as defined in R.S. 15:541, except that an interim expungement shall be
9 available as authorized by the provisions of Code of Criminal Procedure Article
10 985.1.

11 (2) The misdemeanor conviction was for domestic abuse battery, which was
12 not dismissed pursuant to Code of Criminal Procedure Article 894(B)."

13 AMENDMENT NO. 14

14 On page 7, at the end of line 11, delete the period "." and insert a comma "," and insert
15 "unless the person was sentenced pursuant to Code of Criminal Procedure Article 894."

16 AMENDMENT NO. 15

17 On page 8, line 6, after "defined" and before "by" insert "or enumerated"

18 AMENDMENT NO. 16

19 On page 8, at the end of line 16, add the following:

20 "The burden is on the mover to establish that the elements of the offense of
21 conviction are equivalent to the current definition of misdemeanor carnal knowledge
22 of a juvenile as defined by R.S. 14:80.1. A copy of the order waiving the sex
23 offender registration and notification requirements issued pursuant to the provisions
24 of R.S. 15:542(F) shall be sufficient to meet this burden."

25 AMENDMENT NO. 17

26 On page 9, delete lines 4 through 8 in their entirety

27 AMENDMENT NO. 18

28 On page 9, line 14, after "file" and before "objection" delete "an" and insert "an affidavit of
29 response with reasons for the"

30 AMENDMENT NO. 19

31 On page 9, delete lines 17 through 20 in their entirety and insert the following:

32 "(2) If the Louisiana Bureau of Criminal Identification and Information objects to
33 the granting of the motion to expunge a record, it shall file an affidavit of response with
34 reasons for the objection in the record with service to the defendant within one hundred and
35 twenty days from the date of the service of the motion until August 1, 2015. On August 1,
36 2015 and thereafter, if the Louisiana Bureau of Criminal Identification and Information
37 objects to the granting of the motion to expunge a record, it shall file an affidavit of response
38 with reasons for the objection in the record with service to the defendant within sixty days
39 from the date of the service of the motion."

1 AMENDMENT NO. 20

2 On page 9, line 22, change "filing" to "service"

3 AMENDMENT NO. 21

4 On page 10, line 11, delete "A."

5 AMENDMENT NO. 22

6 On page 10, delete lines 18 through 20 in their entirety

7 AMENDMENT NO. 23

8 On page 13, between lines 22 and 23, insert the following:

9 "Art. 985.1 Interim motion to expunge a felony arrest from criminal history in
10 certain cases resulting in a misdemeanor conviction.

11 A. A person may file an interim motion to expunge a felony arrest from his
12 criminal history when that original arrest results in a conviction for a misdemeanor.
13 In such cases only the original felony arrest may be expunged.

14 B. The interim motion to expunge an arrest from criminal history is separate
15 and distinct from an expungement of a final conviction under Code of Criminal
16 Procedure Articles 976, 977, and 978.

17 C. Except as provided in Paragraph D of this Article, an interim motion to
18 expunge a felony arrest from criminal history shall follow the same procedures and
19 fees established pursuant to the provisions of Code of Criminal Procedure Article
20 979, et seq.

21 D. An interim motion to expunge shall not be subject to the time limitations
22 provided for in Articles 977(A)(2) or 978(A)(2) and there shall be no restriction on
23 the number of interim expungements which may be granted."

24 AMENDMENT NO. 24

25 On page 14, delete lines 18 through 20 in their entirety and insert the following:

26 "in the above numbered case be set aside and that the prosecution dismissed
27 in accordance with the Code of Criminal Procedure in that the period of the deferred
28 sentence has run and petitioner has successfully completed the terms of his
29 probation."

30 AMENDMENT NO. 25

31 On page 18, line 33, after "Procedure" and before "for" insert "and the arrestee did not
32 participate in a pretrial diversion program"

33 AMENDMENT NO. 26

34 On page 18, between lines 33 and 34 insert the following:

35 **"OR**

36 "The case involving the arrestee listed above was dismissed or the district
37 attorney declined to prosecute the case prior to the time limitations
38 prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure, and
39 the arrestee did not participate in a pretrial diversion program."

40 AMENDMENT NO. 27

1 On page 18, delete line 35 in its entirety and insert "District Attorney or his designee - Print
2 Name"

3 AMENDMENT NO. 28

4 On page 18, delete line 35 in its entirety and insert "District Attorney or his designee - Print
5 Name"

6 AMENDMENT NO. 29

7 On page 20, delete lines 14 and 15 in their entirety and insert the following:

8 "() Not prosecuted for any offense arising out of this charge."

9 AMENDMENT NO. 30

10 On page 20, line 16, change the question mark "?" to a period "."

11 AMENDMENT NO. 31

12 On page 20, between lines 16 and 17, insert the following:

13 "() DWI Pre-Trial Diversion Program and 5 years have elapsed since the
14 date of arrest."

15 AMENDMENT NO. 32

16 On page 20, delete lines 23 and 24 in their entirety and insert the following:

17 "() Not prosecuted for any offense arising out of this charge."

18 AMENDMENT NO. 33

19 On page 20, line 25, change the question mark "?" to a period "."

20 AMENDMENT NO. 34

21 On page 20, delete lines 32 and 33 in their entirety and insert the following:

22 "() Not prosecuted for any offense arising out of this charge."

23 AMENDMENT NO. 35

24 On page 20, line 34, change the question mark "?" to a period "."

25 AMENDMENT NO. 36

26 On page 20, line 43, change the question mark "?" to a period "."

27 AMENDMENT NO. 37

28 On page 20, line 49, change the question mark "?" to a period "."

29 AMENDMENT NO. 38

30 On page 21, between lines 27 and 28 add the following:

- 1 Certification Letter from the District Attorney verifying that
- 2 the applicant has no convictions or pending applicable
- 3 criminal charges in the requisite time periods.
- 4 Certification Letter from the District Attorney verifying that
- 5 the charges were refused.
- 6 Certification Letter from the District Attorney verifying that
- 7 the applicant did not participate in a pretrial diversion
- 8 program."

9 AMENDMENT NO. 39

10 On page 22, line 1, after "law," and before "or" insert "for the purpose of any other
11 statutorily defined law enforcement or administrative duties, or for the purpose of the
12 requirements of sex offender registration and notification pursuant to the provisions of R.S.
13 15:541, et seq."

14 AMENDMENT NO. 40

15 On page 23, between lines 22 and 23 insert the following:

16 **"OR**

17 Pursuant to Louisiana Code of Criminal Procedure Article 980, the arresting
18 law enforcement agency_____acknowledges the following:

- 19 **No Opposition.** Respondent respectfully consents to waiver of the
- 20 contradictory hearing.
- 21 **Opposition to the Motion of Expungement with Reasons.** Respondent
- 22 respectfully requests a contradictory hearing."

23 AMENDMENT NO. 41

24 On page 24, line 16, after "Information" and before "show" insert "and the arresting law
25 enforcement agency"

26 AMENDMENT NO. 42

27 On page 24, delete line 29 in its entirety

28 AMENDMENT NO. 43

29 On page 24, at the beginning of line 30, change "4." to "3." and at the end of line 30,
30 insert the following:

31 "4. Arresting Agency: _____"

32 AMENDMENT NO. 44

33 On page 25, delete line 21 in its entirety and insert the following:

- 34 A violation of the Uniform Controlled Dangerous Substances Law which is
- 35 ineligible to be expunged."

36 AMENDMENT NO. 45

37 On page 25, line 26, after "defined" and before "as" insert "or enumerated"

1 AMENDMENT NO. 46

2 On page 26, between lines 2 and 3 insert the following:

- 3 The mover was convicted of a misdemeanor which arose from circumstances
4 involving a sex offense as defined in R.S. 15:541.
- 5 The mover was convicted of misdemeanor offense of domestic abuse battery
6 which was not dismissed pursuant to Code of Criminal Procedure Article
7 894(B).
- 8 The mover did not complete pretrial diversion.
- 9 The charges against the mover were not dismissed or refused.
- 10 The mover's felony conviction was not set aside and dismissed pursuant to
11 Code of Criminal Procedure Article 893(E).
- 12 The mover's felony conviction was not set aside and dismissed pursuant to
13 Code of Criminal Procedure Article 894(B).
- 14 The mover completed a DWI pretrial diversion program, but five years have
15 not elapsed since the mover's date of arrest.
- 16 Mover's conviction for felony carnal knowledge of a juvenile is not defined
17 as misdemeanor carnal knowledge of a juvenile had the mover been
18 convicted on or after August 15, 2001.
- 19 Denial for any other reason provided by law with attached reasons for
20 denial."

21 AMENDMENT NO. 47

22 On page 26, line 10, after "law," and before "or" insert "for the purpose of any other
23 statutorily defined law enforcement or administrative duties, or for the purpose of the
24 requirements of sex offender registration and notification pursuant to the provisions of R.S.
25 15:541, et seq."

26 AMENDMENT NO. 48

27 On page 27, delete line 3 in its entirety

28 AMENDMENT NO. 49

29 On page 27, line 4, change "7." to "6."

30 AMENDMENT NO. 50

31 On page 27, line 5, change "8." to "7."

32 AMENDMENT NO. 51

33 On page 27, line 13, change the question mark "?" to a period "."

34 AMENDMENT NO. 52

35 On page 27, line 14, change the question mark "?" to a period "."

36 AMENDMENT NO. 53

37 On page 27, line 22, change the question mark "?" to a period "."

38 AMENDMENT NO. 54

39 On page 27, line 29, change the question mark "?" to a period "."

1 AMENDMENT NO. 55

2 On page 27, line 30, change the question mark "?" to a period "."

3 AMENDMENT NO. 56

4 On page 27, line 37, change the question mark "?" to a period "."

5 AMENDMENT NO. 57

6 On page 27, line 38, change the question mark "?" to a period "."

7 AMENDMENT NO. 58

8 On page 28, line 6, change the question mark "?" to a period "."

9 AMENDMENT NO. 59

10 On page 28, line 16, change the question mark "?" to a period "."

11 AMENDMENT NO. 60

12 On page 28, line 22, change the question mark "?" to a period "."

13 AMENDMENT NO. 61

14 On page 28, line 28, change the question mark "?" to a period "."

15 AMENDMENT NO. 62

16 On page 28, line 34, change the question mark "?" to a period "."

17 AMENDMENT NO. 63

18 On page 28, line 40, change the question mark "?" to a period "."

19 AMENDMENT NO. 64

20 On page 28, line 46, change the question mark "?" to a period "."

21 AMENDMENT NO. 65

22 On page 29, line 46, change the question mark "?" to a period "."

23 AMENDMENT NO. 66

24 On page 29, line 6, change the question mark "?" to a period "."

25 AMENDMENT NO. 67

26 On page 29, line 12, change the question mark "?" to a period "."

27 AMENDMENT NO. 68

28 On page 29, line 18, change the question mark "?" to a period "."

29 AMENDMENT NO. 69

30 On page 30, between lines 24 and 25, insert the following:

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 ITEM NUMBER: _____

23 ARREST NUMBER: _____

24 Mover is entitled to expunge the entry of the felony charge(s) of his arrest
25 pursuant to Louisiana Code of Criminal Procedure 985.1 and states the following in
26 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.

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

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3. Mover was:

_____ YES _____ NO Arrested for a felony offense.
_____ YES _____ NO Convicted of a misdemeanor arising out of
that felony offense.

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

____ Yes ____ No **FELONY ARREST THAT RESULTED IN A MISDEMEANOR CONVICTION**

OFFENSE 1 La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____

(MM/DD/YYYY)

() Felony charge dismissed?
() Convicted of misdemeanor offense arising out of
felony arrest.

4. Mover has attached to his Motion a criminal background check from the Louisiana State Police/Parish Sheriff dated within the past thirty days (required).

The Mover prays that a Rule to Show Cause be issued herein setting a contradictory hearing with the arresting law enforcement agency, the District Attorney's Office, and Louisiana Bureau of Criminal Identification and Information, why an order should not be granted expunging the entry of the felony charges set forth above.

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

Respectfully submitted,

Signature of Attorney for Mover/Defendant

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

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

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Mover/Defendant Name

Address

City, State, ZIP Code

Telephone Number _____"

Art. 995. Order of interim expungement form to be used

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

No.: _____ **Division:** " _____ "

State of Louisiana

vs.

ORDER OF EXPUNGEMENT OF INTERIM ARREST 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 the following reasons (check all that apply):
 - Mover was not arrested for a felony.
 - Mover was not convicted of a misdemeanor offense.
- THE MOTION IS HEREBY GRANTED and the Louisiana Bureau of Criminal Identification and Information is hereby ordered to expunge the entry of the felony charge(s) contained in the criminal history of the above-named for the following felony charge(s):

La. R.S. _____: _____
Name of Offense _____
La. R.S. _____: _____
Name of Offense _____

IT IS FURTHER ORDERED that the Clerk of Court, District Attorney and arresting agency expunge the entry of the felony charge(s) from any public indices of the above-named on the above enumerated charge(s).
THUS OERDERED AND SIGNED this ____ day of _____,
20 ____ at _____,
_____, Louisiana.

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JUDGE"