

2015 Regular Session

HOUSE BILL NO. 284

BY REPRESENTATIVE LOPINTO AND SENATOR GALLOT

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 976, 977(C)(introductory  
3 paragraph) and (1), 978(B)(1) and (3), 979, 980(C) and (D), 984(C), 988, 989, and  
4 992 and to enact Code of Criminal Procedure Articles 894.5, 977(C)(3), 984(D),  
5 986(C), and 996, relative to expungement; to provide for a time limitation for an  
6 expungement for an arrest for operating a vehicle while intoxicated involving the use  
7 of a pretrial diversion program; to provide for the eligibility to expunge certain  
8 convictions; to prohibit the expungement of a record of arrest and conviction for  
9 misdemeanor stalking; to provide with respect to the expungement of arrest and  
10 conviction records of certain felony convictions of violations of the Uniform  
11 Controlled Dangerous Substances Act; to provide for the service of expungement  
12 motions through United States mail; to provide with respect to time periods for  
13 objecting to a motion to expunge records; to amend procedures involving the  
14 expungement of records for violations of the operation of a motor vehicle while  
15 intoxicated; to provide with respect to the forms required for expungements; to  
16 provide for the amendment of forms to include names of the appropriate court  
17 ordering the expungement of records; to amend expungement forms to provide a fee  
18 waiver for juvenile drug court participants; to provide forms for expungement by  
19 redaction; to provide forms for submission of data to the Department of Public  
20 Safety and Corrections, office of motor vehicles, regarding driving while intoxicated  
21 offenses; to provide for applicability; to provide for time limitations to make an  
22 objection to an expungement and the setting of a contradictory hearing regarding an  
23 objection; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. Code of Criminal Procedure Articles 976, 977(C)(introductory paragraph)  
3 and (1), 978(B)(1) and (3), 979, 980(C) and (D), 984(C), 988, 989, and 992 are hereby  
4 amended and reenacted and Code of Criminal Procedure Articles 977(C)(3), 984(D), 986(C),  
5 and 996 are hereby enacted to read as follows:

6 Art. 976. Motion to expunge record of arrest that did not result in a conviction

7 A. A person may file a motion to expunge a record of his arrest for a felony  
8 or misdemeanor offense that did not result in a conviction if any of the following  
9 apply:

10 (1) The person was not prosecuted for the offense for which he was arrested,  
11 and the limitations on the institution of prosecution have barred the prosecution for  
12 that offense.

13 (2) The district attorney for any reason declined to prosecute any offense  
14 arising out of that arrest.

15 (3) Prosecution was instituted and such proceedings have been finally  
16 disposed of by dismissal, sustaining of a motion to quash, or acquittal.

17 B. Pursuant to R.S. 15:578.1, no person arrested for a violation of R.S. 14:98  
18 (operating a vehicle while intoxicated) or a parish or municipal ordinance that  
19 prohibits operating a vehicle while intoxicated, impaired, or while under the  
20 influence of alcohol, drugs, or any controlled dangerous substance, and placed by the  
21 prosecuting authority into a pretrial diversion program, shall be entitled to an  
22 expungement of the record until five years have elapsed since the date of arrest for  
23 that offense.

24 C. The motion to expunge a record of arrest that did not result in a  
25 conviction of a misdemeanor or felony offense shall be served pursuant to the  
26 provisions of Article 979.

27 Art. 977. Motion to expunge a record of arrest and conviction of a misdemeanor  
28 offense

29 \* \* \*

1 C. No person shall be entitled to expungement of a record under ~~either~~ any  
2 of the following circumstances:

3 (1) The misdemeanor conviction arose from circumstances involving or is  
4 the result of an arrest for a sex offense as defined in R.S. 15:541, except that an  
5 interim expungement shall be available as authorized by the provisions of Article  
6 985.1 of this Code.

7 \* \* \*

8 (3) The misdemeanor conviction was for stalking (R.S. 14:40.2).

9 \* \* \*

10 Art. 978. Motion to expunge record of arrest and conviction of a felony offense

11 \* \* \*

12 B. No expungement shall be granted nor shall a person be permitted to file  
13 a motion to expunge the record of arrest and conviction of a felony offense if the  
14 person was convicted of the commission or attempted commission of any of the  
15 following offenses:

16 (1) ~~Unless otherwise permissible under Article 893(E) of this Code, a~~ A  
17 crime of violence as defined by or enumerated in R.S. 14:2(B).

18 \* \* \*

19 (3) ~~Unless otherwise permissible under Article 893(E) of this Code, a~~ A  
20 violation of the Uniform Controlled Dangerous Substances Law, except for any of  
21 the following which may be expunged pursuant to the provisions of this Title: ~~that~~  
22 a

23 (a) A conviction for possession of a controlled dangerous substance as  
24 provided for in R.S. 40:966(C), 967(C), 968(C), or 969(C), or 970(C). ~~or a~~

25 (b) A conviction for possession of a controlled dangerous substance with the  
26 intent to distribute ~~may be expunged pursuant to the provisions of this Title.~~

27 (c) A conviction for a violation of the Uniform Controlled Dangerous  
28 Substances Law which is punishable by a term of imprisonment of not more than  
29 five years.





1	DEFENDANT NAME	
2	DATE OF BIRTH	
3	SSN ( <u>last 4 digits</u> )#	XXX-XX-
4	DATE OF ARREST	
5	DOCKET NUMBER	
6	CHARGE	

7 In accordance with Louisiana Code of Criminal Procedure Article 983, the Office of  
 8 the District Attorney has reviewed the available databases and determined that  
 9 *(Check all that apply. To be completed by authorized personnel from the District*  
 10 *Attorney's Office and returned within 15 days to defendant.):*

11  The arrestee listed above has NO FELONY CONVICTIONS.

12 **AND**

13  The arrestee listed above has NO PENDING FELONY CHARGES UNDER  
 14 A BILL OF INDICTMENT OR INFORMATION.

15 **AND**

16  The arrestee listed above WAS ACQUITTED after trial of all charges  
 17 derived from the arrest listed above, including any lesser and included  
 18 offense.

19 **OR**

20  The arrestee listed above WAS NOT PROSECUTED WITHIN THE TIME  
 21 LIMITATIONS prescribed in Chapter 1 of Title XVII of the Code of  
 22 Criminal Procedure and the arrestee did not participate in a pretrial diversion  
 23 program for the arrest listed above.

24 **OR**

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

29 **OR**



1 DRIVER LIC.# \_\_\_\_\_  
 2 ARRESTING AGENCY: \_\_\_\_\_  
 3 SID# (if available): \_\_\_\_\_  
 4 ARREST NUMBER (ATN): \_\_\_\_\_  
 5 AGENCY ITEM NUMBER: \_\_\_\_\_

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

9 **II. ARREST INFORMATION**

- 10 1. Mover was arrested on \_\_\_\_/\_\_\_\_/\_\_\_\_ (MM/DD/YYYY)  
 11 2. \_\_\_\_ YES \_\_\_\_ NO A supplemental sheet with arrests and/or  
 12 convictions is attached after page 2 of this  
 13 Motion.  
 14 3. Mover was:  
 15 \_\_\_\_ YES \_\_\_\_ NO Arrested, but it did not result in conviction  
 16 \_\_\_\_ YES \_\_\_\_ NO Convicted of and seeks to expunge a  
 17 misdemeanor  
 18 \_\_\_\_ YES \_\_\_\_ NO Convicted of and seeks to expunge a felony  
 19 4. Mover was booked and/or charged with the following offenses: (List each  
 20 offense booked and charged separately. Please number each item numerically  
 21 beginning with number 1. Attach a supplemental sheet, if necessary.)

22 \_\_\_\_ Yes \_\_\_\_ No **ARRESTS THAT DID NOT RESULT IN CONVICTION**

23 **ITEM NO. 1** 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.  
 30 ( ) DWI Pre-Trial Diversion Program  
 31 and 5 years have elapsed since the  
 32 date of arrest.  
 33 ( ) Charge dismissed  
 34 ( ) Found not guilty/judgment of acquittal

35 **ITEM NO. 2** La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_  
 36 Name of the offense \_\_\_\_\_  
 37 ( ) Time expired for prosecution \_\_\_\_\_  
 38 (MM/DD/YYYY)  
 39 ( ) Not prosecuted for any  
 40 offense arising out of this charge.  
 41 ( ) Pre-trial Diversion Program.  
 42 ( ) Charge dismissed  
 43 ( ) Found not guilty/judgment of acquittal







1  
2  
3  
4  
5  
6  
7  
8  
9

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

10  
11

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

12

\_\_\_\_\_  
Address

13  
14

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

15  
16

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

**If not represented by counsel:**

17  
18

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

19  
20

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

21  
22

\_\_\_\_\_  
Address

23  
24

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

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

\* \* \*

25

Art. 992. Order of expungement form to be used

26

" **STATE OF LOUISIANA**

27

**JUDICIAL DISTRICT FOR THE PARISH OF**

28

\_\_\_\_\_

29

**No.:** \_\_\_\_\_

**Division:** " \_\_\_\_\_ "

30

**State of Louisiana**

31

**vs.**

32

\_\_\_\_\_

33

**ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD**

34

Considering the Motion for Expungement

35

The hearing conducted and evidence adduced herein, OR

36

Affidavits of No Opposition filed,

1 IT IS ORDERED, ADJUDGED AND DECREED

2  THE MOTION IS DENIED for Item(s) No.       ,       ,       ,        the following  
3 reasons (check all that apply):

4  More than five years have not elapsed since Mover completed the  
5 misdemeanor conviction sentence.

6  More than ten years have not elapsed since Mover completed the  
7 felony conviction sentence.

8  Mover was convicted of one of the following ineligible felony  
9 offenses:

10  A violation of the Uniform Controlled Dangerous Substances  
11 Law which is ineligible to be expunged.

12  An offense currently listed as a sex offense that requires  
13 registration pursuant to La. Rev. Stat. Ann. 15:540 et seq., at  
14 the time the Motion was filed, regardless of whether the duty  
15 to register was ever imposed.

16  An offense defined or enumerated as a "crime of violence"  
17 pursuant to La. Rev. Stat. Ann. 14:2(B) at the time the  
18 Motion was filed.

19  The arrest and conviction being sought to have expunged is for  
20 operating a motor vehicle while intoxicated and a copy of the proof  
21 from the Department of Public Safety and Corrections, office of  
22 motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).

23  Mover has had another record of misdemeanor conviction expunged  
24 during the previous five-year period.

25  The record of arrest and conviction which Mover seeks to have  
26 expunged is for operating a motor vehicle while intoxicated and  
27 Mover has had another record of arrest and misdemeanor conviction  
28 expunged during the previous ten-year period.

29  Mover has had another record of felony conviction expunged during  
30 the previous fifteen-year period.

- 1                    Mover was convicted of a misdemeanor which arose from
- 2   circumstances involving a sex offense as defined in R.S. 15:541.
- 3                    Mover was convicted of misdemeanor offense of domestic abuse
- 4   battery which was not dismissed pursuant to C. Cr. P. Art. 894(B).
- 5                    Mover did not complete pretrial diversion.
- 6                    The charges against the mover were not dismissed or refused.
- 7                    Mover's felony conviction was not set aside and dismissed pursuant
- 8   to C. Cr. P. Art. 893(E).
- 9                    Mover's felony conviction was not set aside and dismissed pursuant
- 10   to C. Cr. P. Art. 894(B).
- 11                    Mover completed a DWI pretrial diversion program, but five years
- 12   have not elapsed since the mover's date of arrest.
- 13                    Mover's conviction for felony carnal knowledge of a juvenile is not
- 14   defined as misdemeanor carnal knowledge of a juvenile had the
- 15   mover been convicted on or after August 15, 2001.
- 16                    Denial for any other reason provided by law with attached reasons for
- 17   denial.
- 18                    **THE MOTION IS HEREBY GRANTED** for Item(s) No.
- 19   \_\_\_\_\_ and all agencies are ordered to expunge the record of
- 20   arrest/conviction and any photographs, fingerprints, or any other such information
- 21   of any kind maintained in connection with the Arrest(s)/Conviction(s) in the above-
- 22   captioned matter, which record shall be confidential and no longer considered a
- 23   public record, nor be available to other persons except a prosecutor, member of a law
- 24   enforcement agency, or a judge who may request such information in writing
- 25   certifying that such request is for the purpose of prosecuting, investigating, or
- 26   enforcing the criminal law, for the purpose of any other statutorily defined law
- 27   enforcement or administrative duties, or for the purpose of the requirements of sex
- 28   offender registration and notification pursuant to the provisions of R.S. 15:541 et
- 29   seq. or upon an order of this Court to any other person for good cause shown, or as
- 30   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. \_\_\_\_\_ 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)

**THUS ORDERED AND SIGNED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_, Louisiana.

\_\_\_\_\_  
JUDGE



1 Section 2. Code of Criminal Procedure Article 894.5 is hereby enacted to read as  
2 follows:

3 Art. 894.5. Submission of DWI - Code of Criminal Procedure Article 894 Plea  
4 Records to office of motor vehicles; forms to be used and completed by the  
5 clerk of court

6 TRANSMITTAL OF RECORDS OF DWI PLEA PURSUANT TO ARTICLE 894

7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 DATE

12 OFFICE OF MOTOR VEHICLES  
13 P.O. BOX 64886  
14 BATON ROUGE, LA 70896

15 NAME DRIVERS LICENSE#

16 DATE OF BIRTH: OFFENSE DATE:

17 SS# DOCKET NO:

18 TICKET NO:

19  Attached is a certified copy of the court minutes, original/certified copy of  
20 fingerprints, and proof of the requirements as set forth in the Code of  
21 Criminal Procedure Article 556.1, as well as a \$50.00 money order or  
22 certified funds made payable to the office of motor vehicles, in reference to  
23 the above named defendant.

24 NOTE: Do not use this form to submit records of a DWI expungement pursuant to  
25 Code of Criminal Procedure Article 984.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_