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**HOUSE COMMITTEE AMENDMENTS**

2016 Regular Session

Amendments proposed by House Committee on Administration of Criminal Justice to  
Original House Bill No. 7 by Representative Price

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1 AMENDMENT NO. 1

2 On page 1, delete lines 2 through 4 in their entirety and insert the following:

3 "To amend and reenact Code of Criminal Procedure Articles 978(B)(1), 989, and 992  
4 and to enact Code of Criminal Procedure Articles 976(A)(4) and 978(E), relative to  
5 expungement; to"

6 AMENDMENT NO. 2

7 On page 1, line 6, after "period" and before "and" insert "to provide for the expungement  
8 forms to be used;"

9 AMENDMENT NO. 3

10 On page 1, delete lines 9 through 11 in their entirety and insert the following:

11 "Section 1. Code of Criminal Procedure Articles 978(B)(1), 989, and 992 are hereby  
12 amended and reenacted and Code of Criminal Procedure Articles 976(A)(4) and 978(E) are  
13 hereby enacted"

14 AMENDMENT NO. 4

15 On page 1, delete lines 13 through 20 in their entirety

16 AMENDMENT NO. 5

17 On page 2, delete lines 1 and 2 in their entirety and insert the following:

18 "Art. 976. Motion to expunge record of arrest that did not result in a conviction  
19 A. A person may file a motion to expunge a record of his arrest for a felony  
20 or misdemeanor offense that did not result in a conviction if any of the following  
21 apply:

22 \* \* \*

23 (4) The person was judicially determined to be factually innocent and  
24 entitled to compensation for a wrongful conviction pursuant to the provisions of R.S.  
25 15:572.8. The person may seek to have the arrest and conviction which formed the  
26 basis for the wrongful conviction expunged without the limitations or time delays  
27 imposed by the provisions of this Article or any other provision of law to the  
28 contrary."

29 AMENDMENT NO. 6

30 On page 2, delete lines 5 through 13 in their entirety and insert:

31 "\* \* \*"

32 AMENDMENT NO. 7

33 On page 2, line 24, after "battery," and before "aggravated criminal" delete "aggravated  
34 assault,"

1 AMENDMENT NO. 8

2 On page 3, line 4, after "been" and before "employed" insert "continuously"

3 AMENDMENT NO. 9

4 On page 3, after line 9, add the following:

5                               "\*       \*       \*"

6       Art. 989. Motion for expungement forms to be used

7                               **STATE OF LOUISIANA**  
8                               **JUDICIAL DISTRICT FOR THE PARISH OF**

9  
10       No.: \_\_\_\_\_ Division: " \_\_\_\_\_ "

11                               **State of Louisiana**  
12                               **vs.**

13 \_\_\_\_\_  
14                               **MOTION FOR EXPUNGEMENT**

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

17 **I. DEFENDANT INFORMATION**

18 NAME: \_\_\_\_\_  
19                               (*Last,                       First,                       MI*)  
20 DOB: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (MM/DD/YYYY)  
21 GENDER                       \_\_\_\_\_ Female \_\_\_\_\_ Male  
22 SSN (last 4 digits):       XXX-XX-\_\_\_\_\_  
23 RACE: \_\_\_\_\_  
24 DRIVER LIC.#               \_\_\_\_\_  
25 ARRESTING AGENCY:       \_\_\_\_\_  
26 SID# (if available):       \_\_\_\_\_  
27 ARREST NUMBER:       \_\_\_\_\_

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

31 **II. ARREST INFORMATION**

- 32 1.       Mover was arrested on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (MM/DD/YYYY)
- 33 2.       \_\_\_\_\_ YES \_\_\_\_\_ NO       A supplemental sheet with arrests and/or  
34   convictions is attached after page 2 of this  
35   Motion.
- 36 3.       Mover was:
- 37               \_\_\_\_\_ YES \_\_\_\_\_ NO       Arrested, but it did not result in conviction  
38               \_\_\_\_\_ YES \_\_\_\_\_ NO       Convicted of and seeks to expunge a  
39   misdemeanor  
40               \_\_\_\_\_ YES \_\_\_\_\_ NO       Convicted of and seeks to expunge a felony  
41               \_\_\_\_\_ YES \_\_\_\_\_ NO       Convicted but determined to be factually  
42   innocent and entitled to compensation for a  
43   wrongful conviction pursuant to the  
44   provisions of R.S. 15:572.8.
- 45 4.       Mover was booked and/or charged with the following offenses: (List each  
46 offense booked and charged separately. Attach a supplemental sheet, if  
47 necessary.)

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

1        Yes        No **ARRESTS THAT DID NOT RESULT IN CONVICTION**

2 **ITEM NO. 1** La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_

3 Name of the offense \_\_\_\_\_

4 ( ) Time expired for prosecution \_\_\_\_\_

5 (MM/DD/YYYY)

6 ( ) Not prosecuted for any offense

7 arising out of this charge.

8 ( ) Pre-trial Diversion Program.

9 ( ) DWI Pre-Trial Diversion Program

10 and 5 years have elapsed since the

11 date of arrest.

12 ( ) Charge dismissed

13 ( ) Found not guilty/judgment of acquittal

14 **ITEM NO. 2** La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_

15 Name of the offense \_\_\_\_\_

16 ( ) Time expired for prosecution \_\_\_\_\_

17 (MM/DD/YYYY)

18 ( ) Not prosecuted for any

19 offense arising out of this charge.

20 ( ) Pre-trial Diversion Program.

21 ( ) Charge dismissed

22 ( ) Found not guilty/judgment of acquittal

23 **ITEM NO. 3** 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 ( ) Charge dismissed

31 ( ) Found not guilty/judgment of acquittal

32        Yes        No **MISDEMEANOR CONVICTIONS**

33 **ITEM NO. 1** La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_

34 Name of the offense \_\_\_\_\_

35 ( ) Conviction set aside/dismissed \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_

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

37 ( ) More than 5 years have passed

38 since completion of sentence.

39 **ITEM NO. 2** La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_

40 Name of the offense \_\_\_\_\_

41 ( ) Conviction set aside/dismissed \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_

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

43 ( ) More than 5 years have passed

44 since completion of sentence.

45        Yes        No **FELONY CONVICTIONS**

46 **ITEM NO. 1** La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_

47 ( ) Conviction set aside/dismissed \_\_\_\_\_ / \_\_\_\_ / \_\_\_\_

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

49 ( ) More than 10 years have passed

50 since completion of sentence

51 **ITEM NO. 2** La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_

1 ( ) Conviction set aside/dismissed \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
2 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)  
3 ( ) More than 10 years have passed  
4 since completion of sentence

5 \_\_\_\_ Yes \_\_\_\_ No **OPERATING A MOTOR VEHICLE WHILE**  
6 **INTOXICATED CONVICTIONS**

7 Mover has attached the following:

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

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

15  Criminal Background Check from the La. State Police/Parish Sheriff  
16 dated within the past 30 days (required).

17  Bill(s) of Information (if any).

18  Minute entry showing final disposition of case (if any).

19  Certification Letter from the District Attorney for fee waiver (if  
20 eligible).

21  Certification Letter from the District Attorney verifying that the  
22 applicant has no convictions or pending applicable criminal charges  
23 in the requisite time periods.

24  Certification Letter from the District Attorney verifying that the  
25 charges were refused.

26  Certification Letter from the District Attorney verifying that the  
27 applicant did not participate in a pretrial diversion program.

28  A copy of the order waiving the sex offender registration and  
29 notification requirements.

30  A copy of the court order determination of factual innocence and  
31 order of compensation for a wrongful conviction pursuant to the  
32 provisions of R.S. 15:572.8 if applicable.  
33

34 The Mover prays that if there is no objection timely filed by the arresting law  
35 enforcement agency, the district attorney's office, or the Louisiana Bureau of  
36 Criminal Investigation and Information, that an order be issued herein ordering the  
37 expungement of the record of arrest and/or conviction set forth above, including all  
38 photographs, fingerprints, disposition, or any other such information, which record  
39 shall be confidential and no longer considered a public record, nor be made available  
40 to other persons, except a prosecutor, member of a law enforcement agency, or a

1 judge who may request such information in writing, certifying that such request is  
2 for the purpose of prosecuting, investigating, or enforcing the criminal law, for the  
3 purpose of any other statutorily defined law enforcement or administrative duties,  
4 or for the purpose of the requirements of sex offender registration and notification  
5 pursuant to the provisions of R.S. 15:541 et seq. or as an order of this Court to any  
6 other person for good cause shown, or as otherwise authorized by law.

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

10 Respectfully submitted,

11 \_\_\_\_\_  
12 Signature of Attorney for Mover/Defendant

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

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

17 \_\_\_\_\_  
18 Address

19 \_\_\_\_\_  
20 City, State, ZIP Code

21 \_\_\_\_\_  
22 Telephone Number

23  
24 **If not represented by counsel:**

25 \_\_\_\_\_  
26 Signature of Mover/Defendant

27 \_\_\_\_\_  
28 Mover/Defendant Name

29 \_\_\_\_\_  
30 Address

31 \_\_\_\_\_  
32 City, State, ZIP Code

33 \_\_\_\_\_  
34 Telephone Number

35 \* \* \*

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38 Art. 992. Order of expungement form to be used

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**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. \_\_\_\_\_, 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.

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

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

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

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

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

- 1            The arrest and conviction being sought to have expunged is for  
2           operating a motor vehicle while intoxicated and a copy of the proof  
3           from the Department of Public Safety and Corrections, office of  
4           motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).
- 5            Mover has had another record of misdemeanor conviction expunged  
6           during the previous five-year period.
- 7            The record of arrest and conviction which Mover seeks to have  
8           expunged is for operating a motor vehicle while intoxicated and  
9           Mover has had another record of arrest and misdemeanor conviction  
10          expunged during the previous ten-year period.
- 11           Mover has had another record of felony conviction expunged during  
12          the previous fifteen-year period.
- 13           Mover was convicted of a misdemeanor which arose from  
14          circumstances involving a sex offense as defined in R.S. 15:541.
- 15           Mover was convicted of misdemeanor offense of domestic abuse  
16          battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
- 17           Mover did not complete pretrial diversion.
- 18           The charges against the mover were not dismissed or refused.
- 19           Mover's felony conviction was not set aside and dismissed pursuant  
20          to C.Cr.P. Art. 893(E).
- 21           Mover's felony conviction was not set aside and dismissed pursuant  
22          to C.Cr.P. Art. 894(B).
- 23           Mover completed a DWI pretrial diversion program, but five years  
24          have not elapsed since the mover's date of arrest.
- 25           Mover's conviction for felony carnal knowledge of a juvenile is not  
26          defined as misdemeanor carnal knowledge of a juvenile had the  
27          mover been convicted on or after August 15, 2001.

1               Mover has not been employed for ten consecutive years as required  
 2                                    by Article 978(E)(1)(d)

3               Mover was not convicted of a crime that would be eligible for  
 4                                    expungement as required by Article 978(E)(1)

5               Mover has criminal charges pending against him.

6               Mover was convicted of a criminal offense during the ten year period.

7               Denial for any other reason provided by law with attached reasons for  
 8                                    denial.

9               **THE MOTION IS HEREBY GRANTED** for Item(s) No.  
 10           \_\_\_\_\_ and all agencies are ordered to expunge the record of  
 11           arrest/conviction and any photographs, fingerprints, or any other such information  
 12           of any kind maintained in connection with the Arrest(s)/Conviction(s) in the above-  
 13           captioned matter, which record shall be confidential and no longer considered a  
 14           public record, nor be available to other persons except a prosecutor, member of a law  
 15           enforcement agency, or a judge who may request such information in writing  
 16           certifying that such request is for the purpose of prosecuting, investigating, or  
 17           enforcing the criminal law, for the purpose of any other statutorily defined law  
 18           enforcement or administrative duties, or for the purpose of the requirements of sex  
 19           offender registration and notification pursuant to the provisions of R.S. 15:541 et  
 20           seq. or upon an order of this Court to any other person for good cause shown, or as  
 21           otherwise authorized by law.

22               **THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT**  
 23           **BY REDACTION** If the record includes more than one individual and the mover  
 24           is entitled to expungement by redaction pursuant to Code of Criminal Procedure  
 25           Article 985, for Item(s) No. \_\_\_\_\_ and all agencies are ordered to expunge  
 26           the record of arrest/conviction and any photographs, fingerprints, or any other such  
 27           information of any kind maintained in relation to the Arrest(s)/Conviction(s) in the  
 28           above-captioned matter as they relate to the mover only. The record shall be  
 29           confidential and no longer considered a public record, nor be available to other  
 30           persons except a prosecutor, member of a law enforcement agency, or a judge who



1 may request such information in writing certifying that such request is for the  
2 purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose  
3 of any other statutorily defined law enforcement or administrative duties, or for the  
4 purpose of the requirements of sex offender registration and notification pursuant to  
5 the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other  
6 person for good cause shown, or as otherwise authorized by law.

7 NAME: \_\_\_\_\_  
8 (Last, First, MI)

9 DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_ (MM/DD/YY)

10 GENDER: \_\_\_\_ Female \_\_\_\_ Male

11 SSN (last 4 digits): XXX-XX-\_\_\_\_\_

12 RACE: \_\_\_\_\_

13 DRIVER LIC.# \_\_\_\_\_

14 ARRESTING AGENCY: \_\_\_\_\_

15 SID# (if available): \_\_\_\_\_

16 ARREST NUMBER (ATN): \_\_\_\_\_

17 AGENCY ITEM NUMBER: \_\_\_\_\_

18 ARREST DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_ (MM/DD/YY)

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

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

21 \_\_\_\_\_  
22 JUDGE

23 **PLEASE SERVE:**

24 1. District Attorney: \_\_\_\_\_

25 2. Arresting Agency: \_\_\_\_\_

26 3. Parish Sheriff: \_\_\_\_\_

27 4. Louisiana Bureau of Criminal Identification and Information \_\_\_\_\_

28 5. Attorney for Defendant (or defendant) \_\_\_\_\_

29 6. Clerk of Court \_\_\_\_\_ "

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