

2020 Regular Session

HOUSE BILL NO. 179

BY REPRESENTATIVE MARINO

CRIMINAL/RECORDS: Provides relative to certain conditions to expunge a record of arrest and conviction of a felony offense

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 989 and 992 and to repeal Code
3 of Criminal Procedure Article 978(E)(1)(d), relative to expungement; to provide
4 relative to the expungement of certain crimes after a cleansing period; to remove the
5 requirement that a person must be employed for a period of ten consecutive years;
6 to provide for the expungement forms to be used; and to provide for related matter.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Articles 989 and 992 are hereby amended
9 and reenacted to read as follows:

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

11 STATE OF LOUISIANA
12 JUDICIAL DISTRICT FOR THE PARISH OF

13 _____
14 No.: _____ Division: " _____ "

15 State of Louisiana

16 vs.

17 _____

18 MOTION FOR EXPUNGEMENT

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

- 1 () Not prosecuted for any offense
- 2 arising out of this charge.
- 3 () Pre-trial Diversion Program.
- 4 () Charge dismissed
- 5 () Found not guilty/judgment of acquittal

6 **___ Yes ___ No MISDEMEANOR CONVICTIONS**

7 **NO. 1** La. Rev. Stat. Ann. § _____ : _____

8 Name of the offense _____

9 () Conviction set aside/dismissed ___/___/___

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

11 () More than 5 years have passed

12 since completion of sentence.

13 **NO. 2** La. Rev. Stat. Ann. § _____ : _____

14 Name of the offense _____

15 () Conviction set aside/dismissed ___/___/___

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

17 () More than 5 years have passed

18 since completion of sentence.

19 **___ Yes ___ No FELONY CONVICTIONS**

20 **NO. 1** La. Rev. Stat. Ann. § _____ : _____

21 () Conviction set aside/dismissed ___/___/___

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

23 () More than 10 years have passed

24 since completion of sentence

25 **NO. 2** La. Rev. Stat. Ann. § _____ : _____

26 () Conviction set aside/dismissed ___/___/___

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

28 () More than 10 years have passed

29 since completion of sentence

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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

* * *

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

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

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

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

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

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

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

14 An offense defined or enumerated as a "crime of violence" pursuant
15 to R.S. 14:2(B) at the time the Motion was filed.

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

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

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

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

28 Mover was convicted of a misdemeanor which arose from
29 circumstances involving a sex offense as defined in R.S. 15:541.

- 1 Mover was convicted of misdemeanor offense of domestic abuse
- 2 battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
- 3 Mover did not complete pretrial diversion.
- 4 The charges against the mover were not dismissed or refused.
- 5 Mover's felony conviction was not set aside and dismissed pursuant
- 6 to C.Cr.P. Art. 893(E).
- 7 Mover's felony conviction was not set aside and dismissed pursuant
- 8 to C.Cr.P. Art. 894(B).
- 9 Mover completed a DWI pretrial diversion program, but five years
- 10 have not elapsed since the mover's date of arrest.
- 11 Mover's conviction for felony carnal knowledge of a juvenile is not
- 12 defined as misdemeanor carnal knowledge of a juvenile had the
- 13 mover been convicted on or after August 15, 2001.
- 14 ~~Mover has not been employed for ten consecutive years as required~~
- 15 ~~by C.Cr.P. Art. 978(E)(1)(d).~~
- 16 Mover was not convicted of a crime that would be eligible for
- 17 expungement as required by C.Cr.P. Art. 978(E)(1).
- 18 Mover has criminal charges pending against him.
- 19 Mover was convicted of a criminal offense during the ten-year
- 20 period.
- 21 Denial for any other reason provided by law with attached reasons for
- 22 denial.
- 23 **THE MOTION IS HEREBY GRANTED** for No(s). _____
- 24 and all agencies are ordered to expunge the record of arrest/conviction and
- 25 any photographs, fingerprints, or any other such information of any kind
- 26 maintained in connection with the Arrest(s)/Conviction(s) in the above-
- 27 captioned matter, which record shall be confidential and no longer
- 28 considered a public record, nor be available to other persons except a
- 29 prosecutor, member of a law enforcement agency, or a judge who may

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

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

23 NAME: _____

24 (Last, First, MI)

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

26 GENDER: ____ Female ____ Male

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

28 RACE: _____

- (1) More than 10 years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction.
- (2) The person has not been convicted of any other criminal offense during the 10-year period.
- (3) The person has no criminal charge pending against him.
- (4) The person has been employed for a period of 10 consecutive years.

Proposed law removes the requirement that the person be employed for a period of 10 consecutive years.

(Amends C.Cr.P. Arts. 989 and 992; Repeals C.Cr.P. Art. 978(E)(1)(d))