

2020 Regular Session

HOUSE BILL NO. 241

BY REPRESENTATIVE JAMES

CRIMINAL/RECORDS: Provides relative to expungement of records

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 975 and 992 and to repeal Code
3 of Criminal Procedure Articles 977(D) and 978(D), relative to expungements; to
4 provide relative to the number of expungements a person may obtain in a certain
5 period of time; to provide relative to the authority of certain persons to file for an
6 expungement while incarcerated; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Articles 975 and 992 are hereby amended
9 and reenacted to read as follows:

10 Art. 975. Individuals incarcerated; ineligible to file motion to expunge records
11 ~~Notwithstanding any other provision of law to the contrary, a~~ A person in the
12 physical custody of the Department of Public Safety and Corrections, ~~or incarcerated~~
13 ~~in any correctional facility~~ servng a sentence at hard labor shall not be permitted to
14 file a motion to expunge a record of an arrest which did not result in a conviction or
15 to expunge a record of an arrest and conviction of a misdemeanor or felony offense.

16 * * *

1 Art. 992. Order of 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 **ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD**

10 Considering the Motion for Expungement

11 The hearing conducted and evidence adduced herein, OR

12 Affidavits of No Opposition filed,

13 IT IS ORDERED, ADJUDGED AND DECREED

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

16 More than five years have not elapsed since Mover completed the
17 misdemeanor conviction sentence.

18 More than ten years have not elapsed since Mover completed the
19 felony conviction sentence.

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

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

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

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

- 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.
- 28 Mover has not been employed for ten consecutive years as required
29 by C.Cr.P. Art. 978(E)(1)(d).

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

8 NAME: _____

9 (Last, First, MI)

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

11 GENDER: ____ Female ____ Male

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

13 RACE: _____

14 DRIVER LIC.# _____

15 ARRESTING AGENCY: _____

16 SID# (if available): _____

17 ARREST NUMBER (ATN): _____

18 AGENCY ITEM NUMBER: _____

19 ARREST DATE: ____ / ____ / ____ (MM/DD/YY)

20 **THUS ORDERED AND SIGNED** this ____ day of _____, 20 ____

21 at _____, Louisiana.

22 _____

23 JUDGE

24 **PLEASE SERVE:**

25 1. District Attorney: _____

26 2. Arresting Agency: _____

27 3. Parish Sheriff: _____

28 4. Louisiana Bureau of Criminal Identification and Information _____

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))