

2020 Regular Session

HOUSE BILL NO. 179

BY REPRESENTATIVE MARINO

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

Art. 989. Motion for expungement forms to be used

STATE OF LOUISIANA

JUDICIAL DISTRICT FOR THE PARISH OF

No.: _____

Division: " _____ "

State of Louisiana

vs.

MOTION FOR EXPUNGEMENT

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

I. DEFENDANT INFORMATION

NAME: _____

(Last, First, MI)

1 DOB: _____ / _____ / _____ (MM/DD/YYYY)
 2 GENDER _____ Female _____ Male
 3 SSN (last 4 digits): XXX-XX-_____

4 RACE: _____

5 DRIVER LIC.# _____

6 ARRESTING AGENCY: _____

7 SID# (if available): _____

8 ARREST NUMBER (ATN): _____

9 AGENCY ITEM NO. _____

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

13 **II. ARREST INFORMATION**

- 14 1. Mover was arrested on _____ / _____ / _____ (MM/DD/YYYY)
- 15 2. _____ YES _____ NO A supplemental sheet with arrests and/or
 16 convictions is attached after page 2 of this
 17 Motion.
- 18 3. Mover was:
- 19 _____ YES _____ NO Arrested, but it did not result in conviction
- 20 _____ YES _____ NO Convicted of and seeks to expunge a
 21 misdemeanor
- 22 _____ YES _____ NO Convicted of and seeks to expunge a felony
- 23 _____ YES _____ NO Convicted but determined to be factually
 24 innocent and entitled to compensation for a
 25 wrongful conviction pursuant to the
 26 provisions of R.S. 15:572.8.
- 27 4. Mover was booked and/or charged with the following offenses: (List each
 28 offense booked and charged separately. Attach a supplemental sheet, if
 29 necessary.)
- 30 _____ Yes _____ No **ARRESTS THAT DID NOT RESULT IN CONVICTION**

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

1 **Yes** **No** **MISDEMEANOR CONVICTIONS**

2 **NO. 1** La. Rev. Stat. Ann. § :

3 Name of the offense

4 () Conviction set aside/dismissed / /

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

6 () More than 5 years have passed

7 since completion of sentence.

8 **NO. 2** La. Rev. Stat. Ann. § :

9 Name of the offense

10 () Conviction set aside/dismissed / /

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

12 () More than 5 years have passed

13 since completion of sentence.

14 **Yes** **No** **FELONY CONVICTIONS**

15 **NO. 1** La. Rev. Stat. Ann. § :

16 () Conviction set aside/dismissed / /

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

18 () More than 10 years have passed

19 since completion of sentence

20 **NO. 2** 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 **Yes** **No** **OPERATING A MOTOR VEHICLE WHILE**
26 **INTOXICATED CONVICTIONS**

27 Mover has attached the following:

28 () A copy of the proof from the Department of Public Safety and
29 Corrections, office of motor vehicles, that it has received from the
30 clerk of court a certified copy of the record of the plea, fingerprints

1 of the defendant, and proof of the requirements set forth in C.Cr.P.
2 Art. 556, which shall include the defendant's date of birth, last four
3 digits of social security number, and driver's license number

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

- 5 Criminal Background Check from the La. State Police/Parish Sheriff
- 6 dated within the past 60 days (required).
- 7 Bill(s) of Information (if any).
- 8 Minute entry showing final disposition of case (if any).
- 9 Certification Letter from the District Attorney for fee waiver (if
- 10 eligible).
- 11 Certification Letter from the District Attorney verifying that the
- 12 applicant has no convictions or pending applicable criminal charges
- 13 in the requisite time periods.
- 14 Certification Letter from the District Attorney verifying that the
- 15 charges were refused.
- 16 Certification Letter from the District Attorney verifying that the
- 17 applicant did not participate in a pretrial diversion program.
- 18 A copy of the order waiving the sex offender registration and
- 19 notification requirements.
- 20 ~~Documentation verifying that the mover has been employed for ten~~
- 21 ~~consecutive years.~~
- 22 A copy of the court order determination of factual innocence and
- 23 order of compensation for a wrongful conviction pursuant to the
- 24 provisions of R.S. 15:572.8 if applicable.

25 The Mover prays that if there is no objection timely filed by the arresting law
26 enforcement agency, the district attorney's office, or the Louisiana Bureau of
27 Criminal Identification and Information, that an order be issued herein ordering the
28 expungement of the record of arrest and/or conviction set forth above, including all
29 photographs, fingerprints, disposition, or any other such information, which record
30 shall be confidential and no longer considered a public record, nor be made available

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

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

11 Respectfully submitted,

12 _____

13 Signature of Attorney for Mover/Defendant

14 _____

15 Attorney for Mover/Defendant Name

16 _____

17 Attorney's Bar Roll No.

18 _____

19 Address

20 _____

21 _____

22 City, State, ZIP Code

23 _____

24 Telephone Number

25 **If not represented by counsel:**

26 _____

27 Signature of Mover/Defendant

28 _____

29 Mover/Defendant Name

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Address

City, State, ZIP Code

Telephone Number

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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

THE MOTION IS DENIED for No(s). ____, , , , _____ for 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.

- 1 An offense currently listed as a sex offense that requires registration
2 pursuant to R.S. 15:540 et seq., at the time the Motion was filed,
3 regardless of whether the duty to register was ever imposed.
- 4 An offense defined or enumerated as a "crime of violence" pursuant
5 to R.S. 14:2(B) at the time the Motion was filed.
- 6 The arrest and conviction being sought to have expunged is for
7 operating a motor vehicle while intoxicated and a copy of the proof
8 from the Department of Public Safety and Corrections, office of
9 motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).
- 10 Mover has had another record of misdemeanor conviction expunged
11 during the previous five-year period.
- 12 The record of arrest and conviction which Mover seeks to have
13 expunged is for operating a motor vehicle while intoxicated and
14 Mover has had another record of arrest and misdemeanor conviction
15 expunged during the previous ten-year period.
- 16 Mover has had another record of felony conviction expunged during
17 the previous fifteen-year period.
- 18 Mover was convicted of a misdemeanor which arose from
19 circumstances involving a sex offense as defined in R.S. 15:541.
- 20 Mover was convicted of misdemeanor offense of domestic abuse
21 battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
- 22 Mover did not complete pretrial diversion.
- 23 The charges against the mover were not dismissed or refused.
- 24 Mover's felony conviction was not set aside and dismissed pursuant
25 to C.Cr.P. Art. 893(E).
- 26 Mover's felony conviction was not set aside and dismissed pursuant
27 to C.Cr.P. Art. 894(B).
- 28 Mover completed a DWI pretrial diversion program, but five years
29 have not elapsed since the mover's date of arrest.

1 Mover's conviction for felony carnal knowledge of a juvenile is not
2 defined as misdemeanor carnal knowledge of a juvenile had the
3 mover been convicted on or after August 15, 2001.

4 ~~Mover has not been employed for ten consecutive years as required~~
5 ~~by C.Cr.P. Art. 978(E)(1)(d).~~

6 Mover was not convicted of a crime that would be eligible for
7 expungement as required by C.Cr.P. Art. 978(E)(1).

8 Mover has criminal charges pending against him.

9 Mover was convicted of a criminal offense during the ten-year
10 period.

11 Denial for any other reason provided by law with attached reasons for
12 denial.

13 **THE MOTION IS HEREBY GRANTED** for No(s). _____

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

27 **THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT**

28 **BY REDACTION** If the record includes more than one individual and the mover
29 is entitled to expungement by redaction pursuant to Code of Criminal Procedure
30 Article 985, for No(s). _____ and all agencies are ordered to expunge the

1 record of arrest/conviction and any photographs, fingerprints, or any other such
 2 information of any kind maintained in relation to the Arrest(s)/Conviction(s) in the
 3 above-captioned matter as they relate to the mover only. The record shall be
 4 confidential and no longer considered a public record, nor be available to other
 5 persons except a prosecutor, member of a law enforcement agency, or a judge who
 6 may request such information in writing certifying that such request is for the
 7 purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose
 8 of any other statutorily defined law enforcement or administrative duties, or for the
 9 purpose of the requirements of sex offender registration and notification pursuant to
 10 the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other
 11 person for good cause shown, or as otherwise authorized by law.

12 NAME: _____

13 (Last, First, MI)

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

15 GENDER: ____ Female ____ Male

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

17 RACE: _____

18 DRIVER LIC.# _____

19 ARRESTING AGENCY: _____

20 SID# (if available): _____

21 ARREST NUMBER (ATN): _____

22 AGENCY ITEM NUMBER: _____

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

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

25 at _____, Louisiana.

26 _____

27 JUDGE

28 **PLEASE SERVE:**

29 1. District Attorney: _____

- 1 2. Arresting Agency: _____
- 2 3. Parish Sheriff: _____
- 3 4. Louisiana Bureau of Criminal Identification and Information _____
- 4 5. Attorney for Defendant (or defendant) _____
- 5 6. Clerk of Court _____

6 Section 2. Code of Criminal Procedure Article 978(E)(1)(d) is hereby repealed in
 7 its entirety.

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 PRESIDENT OF THE SENATE

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____