2022 Regular Session

HOUSE BILL NO. 774

BY REPRESENTATIVE GLOVER

CRIMINAL/RECORDS: Provides relative to expungements for certain amounts of possession of marijuana

1	AN ACT
2	To amend and reenact Code of Criminal Procedure Article 986(A) and (C) and to enact
3	Code of Criminal Procedure Articles 977(D) and 997, relative to expungement of
4	records; to provide relative to the motion to expunge a record of arrest and
5	conviction of a misdemeanor offense; to provide relative to when a person may file
6	an expungement for certain convictions of possession of marijuana; to provide
7	relative to the expungement form for misdemeanor marijuana convictions; to provide
8	for prospective and retroactive application; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. Code of Criminal Procedure Article 986(A) and (C) are hereby amended
11	and reenacted and Code of Criminal Procedure Articles 977(D) and 997 are hereby enacted
12	to read as follows:
13	Art. 977. Motion to expunge a record of arrest and conviction of a misdemeanor
14	offense
15	* * *
16	D. Notwithstanding any provision of law to the contrary, a person may file
17	a motion to expunge his record of arrest and conviction of a misdemeanor offense
18	involving the possession of marijuana, tetrahydrocannbinol, or chemical derivatives
19	thereof pursuant to R.S. 40:966(C)(2)(a) after one hundred eighty days from the date
20	of conviction.

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	Art. 986. Forms for the expungement of records	
2	A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,	
3	994, and 995, and 997 of this Code shall be used for filing motions to expunge a	
4	record of an arrest which did not result in a conviction, for the expungement of a	
5	record of arrest and conviction of a misdemeanor or felony offense, or for an interim	
6	motion to expunge a felony offense which resulted in a misdemeanor conviction.	
7	* * *	
8	C. The clerk of court for any court in the state of Louisiana having criminal	
9	jurisdiction may amend any of the forms provided for in Articles 987, 988, 989, 990,	
10	991, 992, 993, 994, and 995, and 997 to provide the appropriate name of the court	
11	ordering an expungement of records.	
12	* * *	
13	Art. 997. Motion for expungement form to be used for certain misdemeanor	
14	convictions	
15	STATE OF LOUISIANA	
16	JUDICIAL DISTRICT FOR THE PARISH OF	
17		
18	<u>No.:</u> <u>Division: "</u> "	
19	State of Louisiana	
20	<u>vs.</u>	
21		
22	MOTION FOR EXPUNGEMENT FOR MISDEMEANOR CONVICTION FOR	
23	POSSESSION OF MARIJUANA PURSUANT TO R.S. 40:966(C)(2)(a)	
24	NOW INTO COURT comes mover, who provides the court with the following	
25	information in connection with this request:	
26	I. DEFENDANT INFORMATION	
27	NAME:	
28	(Last, <u>First, MI</u>)	
29	DOB: / / (MM/DD/YYYY)	

1	GENDER Female Male
2	SSN (last 4 digits): XXX-XX-
3	RACE:
4	DRIVER LIC.#
5	ARRESTING AGENCY:
6	SID# (if available):
7	ARREST NUMBER (ATN):
8	AGENCY ITEM NO.
9	Mover is entitled to expunge the record of his arrest/conviction pursuant to Louisiana
10	Code of Criminal Procedure Article 971 et seq. and states the following in support:
11	II. MISDEMEANOR CONVICTION FOR POSSESSION OF MARIJUANA
12	<u>PURSUANT TO R.S. 40:966(C)(2)(a)</u>
13	1. Mover was convicted on// (MM/DD/YYYY)
14	The Mover prays that if there is no objection timely filed by the arresting law
15	enforcement agency, the district attorney's office, or the Louisiana Bureau of
16	Criminal Identification and Information, that an order be issued herein ordering the
17	expungement of the record of arrest and/or conviction set forth above, including all
18	photographs, fingerprints, disposition, or any other such information, which record
19	shall be confidential and no longer considered a public record, nor be made available
20	to other persons, except a prosecutor, member of a law enforcement agency, or a
21	judge who may request such information in writing, certifying that such request is
22	for the purpose of prosecuting, investigating, or enforcing the criminal law, for the
23	purpose of any other statutorily defined law enforcement or administrative duties,
24	or for the purpose of the requirements of sex offender registration and notification
25	pursuant to the provisions of R.S. 15:541 et seq. or as an order of this Court to any
26	other person for good cause shown, or as otherwise authorized by law.
27	If an "Affidavit of No Opposition" by each agency named herein is attached hereto
28	and made a part hereof, Defendant requests that no contradictory hearing be required
29	and the Motion be granted ex parte.

1	Respectfully submitted,
2	
3	Signature of Attorney for Mover/Defendant
4	
5	Attorney for Mover/Defendant Name
6	
7	Attorney's Bar Roll No.
8	
9	Address
10	
11	City, State, ZIP Code
12	
13	<u>Telephone Number</u>
14	If not represented by counsel:
15	
16	Signature of Mover/Defendant
17	
18	Mover/Defendant Name
19	
20	Address
21	
22	City, State, ZIP Code
23	
24	Telephone Number
25	Section 2. The provisions of this Act shall be given prospective and retroactive
26	application.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 774 Reengrossed	2022 Regular Session	Glover
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Abstract: Relative to the expungement of records, provides relative to when a person may file an expungement for certain convictions of possession of marijuana.

<u>Present law</u> provides for the expungement of certain arrest and conviction records under certain circumstances.

<u>Present law</u> further provides that a person may file a motion to expunge his record of arrest and conviction of a misdemeanor offense if either of the following apply:

- (1) The conviction was set aside and prosecution was dismissed.
- (2) More than five years have elapsed since the person completed any sentence, deferred adjudication, or period of probation and parole, and the person has not been convicted of any felony offense during such period, and has no felony charge pending against him.

<u>Proposed law</u> retains <u>present law</u> and provides that a person may file a motion to expunge his record of arrest and conviction of a misdemeanor offense involving the possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof pursuant to <u>present law</u> (R.S. 40:966(C)(2)(a)) after 180 days from the date of conviction.

Present law provides for the forms used for the expungement of records.

<u>Proposed law</u> adds an additional form for misdemeanor convictions for possession of marijuana pursuant to <u>present law</u> (R.S. 40:966(C)(2)(a)).

Provides for prospective and retroactive application.

(Amends C.Cr.P. Art. 986(A) and (C); Adds C.Cr.P. Arts. 977(D) and 997)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Administration of</u> <u>Criminal Justice to the original bill:</u>

- 1. Provide that a person may file a motion to expunge a record of arrest and conviction for certain convictions of possession of marijuana after 180 days from the date of conviction.
- 2. Remove <u>proposed law</u> relative to the exemption of expungement fees for persons convicted of a misdemeanor offense involving the possession of marijuana.

The House Floor Amendments to the engrossed bill:

1. Add a form for the expungement of misdemeanor convictions for possession of marijuana pursuant to present law (R.S. 40:966(C)(2)(a)).