

2023 Regular Session

HOUSE BILL NO. 286

BY REPRESENTATIVE BOYD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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

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AN ACT

To amend and reenact Code of Criminal Procedure Articles 983(J), (K), and (L) and 986(A) and (C) and to enact Code of Criminal Procedure Articles 977(D), 983(M), and 998, relative to expungement; to provide relative to the motion to expunge a record of arrest and conviction of a misdemeanor offense; to provide relative to when a person may file an expungement for certain convictions of possession of marijuana; to provide relative to the fees for an expungement of a record; to provide for exemptions of fees in certain expungement cases; to provide relative to the expungement form for misdemeanor marijuana convictions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Articles 983(J), (K), and (L) and 986(A) and (C) are hereby amended and reenacted and Code of Criminal Procedure Articles 977(D), 983(M), and 998 are hereby enacted to read as follows:

Art. 977. Motion to expunge a record of arrest and conviction of a misdemeanor offense

* * *

D. Notwithstanding any provision of law to the contrary, a person may file a motion to expunge his record of arrest and conviction of a misdemeanor first offense involving the possession of marijuana, tetrahydrocannabinol, or chemical

1 derivatives thereof pursuant to R.S. 40:966(C)(2)(a) or (b) after ninety days from the
2 date of conviction.

3 * * *

4 Art. 983. Costs of expungement of a record; fees; collection; exemptions;
5 disbursements

6 * * *

7 J. Notwithstanding any other provision of law to the contrary, a person who
8 has been convicted of a misdemeanor first offense involving the possession of
9 marijuana, tetrahydrocannabinol, or chemical derivatives thereof pursuant to R.S.
10 40:966(C)(2)(a) or (b) shall be exempt from the payment of the processing fees
11 otherwise authorized by this Article.

12 ~~J.~~K. Notwithstanding any other provision of law to the contrary, a person
13 who has been granted a pardon shall be exempt from payment of the processing fees
14 otherwise authorized by this Article. However, no person granted a first offender
15 pardon pursuant to Article IV, Section 5(E)(1) of the Constitution of Louisiana shall
16 be exempt from payment of the processing fees otherwise authorized by this Article.

17 ~~K.~~L. If an application for an expungement of a record includes two or more
18 offenses arising out of the same arrest, including misdemeanors, felonies, or both,
19 the applicant shall be required to pay only one fee as provided for by this Article.

20 ~~L.~~M. Notwithstanding any provision of law to the contrary, an applicant for
21 the expungement of a record, other than as provided in Paragraphs F and G of this
22 Article, may proceed in forma pauperis in accordance with the provisions of Code
23 of Civil Procedure Article 5181 et seq.

24 * * *

25 Art. 986. Forms for the expungement of records

26 A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,
27 994, ~~and 995, and 998~~ of this Code shall be used for filing motions to expunge a
28 record of an arrest which did not result in a conviction, for the expungement of a

1 record of arrest and conviction of a misdemeanor or felony offense, or for an interim
2 motion to expunge a felony offense which resulted in a misdemeanor conviction.

3 * * *

4 C. The clerk of court for any court in the state of Louisiana having criminal
5 jurisdiction may amend any of the forms provided for in Articles 987, 988, 989, 990,
6 991, 992, 993, 994, ~~and 995,~~ and 998 to provide the appropriate name of the court
7 ordering an expungement of records.

8 * * *

9 Art. 998. Motion for expungement form to be used for certain misdemeanor
10 convictions

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 FOR MISDEMEANOR FIRST CONVICTION

19 FOR POSSESSION OF MARIJUANA PURSUANT TO R.S. 40:966(C)(2)(a) or (b)

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

22 I. DEFENDANT INFORMATION

23 NAME: _____

24 (Last, First, MI)

25 DOB: _____ / _____ / _____ (MM/DD/YYYY)

26 GENDER _____ Female Male

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

28 RACE: _____

29 DRIVER LIC.# _____

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Attorney for Mover/Defendant Name

Attorney's Bar Roll No.

Address

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

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 286 Original

2023 Regular Session

Boyd

Abstract: Relative to the expungement of records, provides relative to when a person may file an expungement for certain convictions of possession of marijuana.

Present law provides for the expungement of certain arrest and conviction records under certain circumstances.

Present law 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.

Proposed law retains present law 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 present law (R.S. 40:966(C)(2)(a) or (b)) after 90 days from the date of conviction.

Present law (C.Cr.P. Art. 983) provides relative to the fees for an expungement of a record and exempts certain applicants from paying any fees.

Proposed law retains present law and adds that a person who has been convicted of a misdemeanor offense involving the possession of marijuana pursuant to present law (R.S. 40:966(C)(2)(a) or (b)) shall be exempt from the payment of the processing fees otherwise authorized by present law.

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

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

(Amends C.Cr.P. Arts. 983(J), (K), and (L) and 986(A) and (C); Adds C.Cr.P. Arts. 977(D), 983(M), and 998)