

2023 Regular Session

HOUSE BILL NO. 286

BY REPRESENTATIVES BOYD, KNOX, AND LAFLEUR

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

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), 983(M), and 998, relative to
4 expungement; 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 fees for an expungement of a record; to provide for fees in certain
8 expungement cases; to provide relative to the expungement form for misdemeanor
9 marijuana convictions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

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

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

16 * * *

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

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

3 * * *

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

6 * * *

7 M.(1) Notwithstanding Paragraph B of this Article, the total cost to obtain
8 a court order expunging a record of a misdemeanor first offense involving the
9 possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof
10 pursuant to R.S. 40:966(C)(2)(a) shall not exceed three hundred dollars. The
11 nonrefundable processing fees for a court order expunging such record shall be as
12 follows:

13 (a) The Louisiana Bureau of Criminal Identification and Information may
14 charge a processing fee of fifty dollars for the expungement of the record when
15 ordered to do so by the court in compliance with the provisions of this Title.

16 (b) The sheriff may charge a processing fee of fifty dollars for the
17 expungement of the record when ordered to do so by the court in compliance with
18 the provisions of this Title.

19 (c) The district attorney may charge a processing fee of fifty dollars for the
20 expungement of the record when ordered to do so by the court in compliance with
21 the provisions of this Title.

22 (d) The clerk of court may charge a processing fee of one hundred fifty
23 dollars to cover the clerk's costs of the expungement.

24 (2) The clerk of court shall collect all processing fees at the time the motion
25 for expungement is filed.

26 (3) The clerk shall immediately direct the collected processing fee provided
27 for in Subsubpragraph (1)(a) of this Paragraph to the Louisiana Bureau of Criminal
28 Identification and Information, and the processing fee amount shall be deposited

1 immediately upon receipt into the Criminal Identification and Information Dedicated
2 Fund Account.

3 (4) The clerk shall immediately direct the collected processing fees provided
4 for in Subsubparagraphs (1)(b) and (c) of this Paragraph to the sheriff and the district
5 attorney, and the processing fee amount shall be remitted immediately upon receipt
6 in equal proportions to the office of the district attorney and the sheriff's general
7 fund.

8 (5) The provisions of this Paragraph shall be null, void, and without effect
9 and shall terminate on August 1, 2026.

10 * * *

11 Art. 986. Forms for the expungement of records

12 A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,
13 994, ~~and 995,~~ and 998 of this Code shall be used for filing motions to expunge a
14 record of an arrest which did not result in a conviction, for the expungement of a
15 record of arrest and conviction of a misdemeanor or felony offense, or for an interim
16 motion to expunge a felony offense which resulted in a misdemeanor conviction.

17 * * *

18 C. The clerk of court for any court in the state of Louisiana having criminal
19 jurisdiction may amend any of the forms provided for in Articles 987, 988, 989, 990,
20 991, 992, 993, 994, ~~and 995,~~ and 998 to provide the appropriate name of the court
21 ordering an expungement of records.

22 * * *

23 Art. 998. Motion for expungement form to be used for certain misdemeanor
24 convictions

25 **STATE OF LOUISIANA**

26 **JUDICIAL DISTRICT FOR THE PARISH OF**

27 _____

28 **No.:** _____

Division: " _____ "

29 **State of Louisiana**

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vs.

MOTION FOR EXPUNGEMENT FOR MISDEMEANOR FIRST CONVICTION
FOR POSSESSION OF MARIJUANA PURSUANT TO R.S. 40:966(C)(2)(a)

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)

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

GENDER _____ Female _____ Male

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

RACE: _____

DRIVER LIC.# _____

ARRESTING AGENCY: _____

SID# (if available): _____

ARREST NUMBER (ATN): _____

AGENCY ITEM NO. _____

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

II. MISDEMEANOR FIRST CONVICTION FOR POSSESSION OF MARIJUANA PURSUANT TO R.S. 40:966(C)(2)(a)

1. Mover was convicted on _____ / _____ / _____ (MM/DD/YYYY)

The Mover prays that if there is no objection timely filed by the arresting law enforcement agency, the district attorney's office, or the Louisiana Bureau of Criminal Identification and Information, that an order be issued herein ordering the expungement of the record of arrest and/or conviction set forth above, including all photographs, fingerprints, disposition, or any other such information, which record 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 hereto
 9 and made a part hereof, defendant requests that no contradictory hearing be required
 10 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 City, State, ZIP Code

22 _____
 23 Telephone Number

24 **If not represented by counsel:**
 25 _____

26 Signature of Mover/Defendant
 27 _____

28 Mover/Defendant Name

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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 Engrossed

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)) 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 also exempts certain applicants from paying any fees.

Proposed law retains present law and adds that the total cost for 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)) shall not exceed \$300.

Proposed law further provides that the nonrefundable processing fees for a court order expunging such record shall be as follows:

- (1) The La. Bureau of Criminal Identification and Information may charge a processing fee of \$50.
- (2) The sheriff may charge a processing fee of \$50.
- (3) The district attorney may charge a processing fee of \$50.

(4) The clerk of court may charge a processing fee of \$150.

Proposed law provides that the \$300 fee shall be null, void, and without effect and shall terminate on Aug. 1, 2026.

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)).

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

Summary of Amendments Adopted by House

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

1. Remove proposed law relative to misdemeanor first offenses of possession of marijuana over 14 grams.
2. Provide that proposed law only applies to misdemeanor first offenses of possession of marijuana of 14 grams or less, pursuant to present law (R.S. 40:966(C)(2)(a)).
3. Remove proposed law relative to the exemption of processing fees for persons convicted of certain misdemeanor offenses for possession of marijuana.
4. Provide for a fee not to exceed \$300 for persons convicted of certain misdemeanor offenses for possession of marijuana.
5. Provide relative to the distribution of the \$300 fee to the La. Bureau of Criminal Identification and Information, the sheriffs, the district attorneys, and the clerks of court.
6. Provide that the \$300 fee shall be null, void, and without effect on Aug. 1, 2026.