

ACT No. 145

HOUSE BILL NO. 55

BY REPRESENTATIVES LOPINTO, ADAMS, ARMES, BADON, BARRAS, WESLEY BISHOP, BROSSETT, BROWN, HENRY BURNS, BURRELL, CARMODY, CARTER, COX, DIXON, GAINES, GUILLORY, HARRISON, HAZEL, HODGES, HOFFMANN, HONORE, HOWARD, HUNTER, KATRINA JACKSON, JAMES, JEFFERSON, NANCY LANDRY, TERRY LANDRY, MORENO, JIM MORRIS, NORTON, PYLANT, SMITH, ST. GERMAIN, THIERRY, PATRICK WILLIAMS, AND WOODRUFF AND SENATORS GALLOT, GUILLORY, JOHNS, MARTINY, MILLS, MORRELL, GARY SMITH, AND TARVER

1 AN ACT

2 To amend and reenact R.S. 44:4.1(38), to enact Title XXXIV of the Code of Criminal
3 Procedure, to be comprised of Articles 971 through 995, and to repeal R.S. 44:9,
4 relative to expungement; to provide for the effect of expunged records; to provide
5 for definitions; to authorize the expungement of certain felony conviction records;
6 to prohibit the dissemination of expunged records by third parties; to provide
7 penalties for the unlawful dissemination of expunged records by third parties; to
8 provide for legislative findings; to provide for applicability; to provide for
9 procedures for obtaining an expungement; to provide for filing of motions to obtain
10 an expungement; to provide for service of motions for expungement; to provide for
11 service of judgments of expungement; to authorize the expungement of conviction
12 records after a certain period of time has elapsed; to provide for eligibility to obtain
13 an expungement; to delete provisions of law referring to destruction of arrest or
14 conviction records; to provide for the assessment of certain fees for expungement;
15 to provide that certain fees are nonrefundable; to provide for expungement by
16 redaction of records; to provide for uniform forms for expungement; to provide for
17 the exemption of certain fees in certain circumstances; to provide for a judgment
18 granting an expungement; to provide for contradictory hearings; to prohibit
19 incarcerated individuals from filing a motion to expunge an arrest or conviction
20 record; to provide for the interim expungement of certain arrests from criminal

1 history records; to provide for exceptions to the public records law; and to provide
2 for related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1. Title XXXIV of the Code of Criminal Procedure, comprised of Articles
5 971 through 995, is hereby enacted to read as follows:

6 Art. 971. Legislative findings

7 The legislature hereby finds and declares the following:

8 (1) Louisiana law provides for the expungement of certain arrest and
9 conviction records under limited circumstances. Obtaining an expungement of these
10 records allows for the removal of a record from public access but does not result in
11 the destruction of the record.

12 (2) An expunged record is confidential, but remains available for use by law
13 enforcement agencies, criminal justice agencies, and other statutorily defined
14 agencies.

15 (3) Following the passage of the Maritime Transportation Security Act of
16 2002, all individuals who wish to work at ports or on vessels regulated by this Act
17 are required to obtain a Transportation Worker Identification Credential (TWIC).
18 Obtaining a TWIC card requires a criminal history check and clearance which cannot
19 be obtained without either a clean record or an expunged record with respect to
20 certain offenses.

21 (4) The inability to obtain an expungement can prevent certain individuals
22 from obtaining gainful employment.

23 (5) The need for employment must be balanced appropriately against the
24 desire for public safety. Nothing in this Title shall be construed to limit or impair in
25 any way the subsequent use of any expunged record of arrest or conviction in any
26 lawful manner by law enforcement, law enforcement agencies, prosecutors, or
27 judges, including its use as a predicate offense or for the provisions of the Habitual
28 Offender Law.

29 (6) It is the intention of the legislature that this Title will provide
30 opportunities to break the cycle of criminal recidivism, increase public safety, and

1 assist the growing population of criminal offenders reentering the community to
2 establish a self-sustaining life through opportunities in employment.

3 (7) In balancing the legitimate needs of law enforcement agencies and the
4 desire to afford employment opportunities to all Louisiana citizens, the Louisiana
5 Legislature enacts the provisions of this Title within the Code of Criminal Procedure.

6 Art. 972. Definitions

7 As used in this Title:

8 (1) "Expunge a record" means to remove a record of arrest or conviction,
9 photographs, fingerprints, disposition, or any other information of any kind from
10 public access pursuant to the provisions of this Title. "Expunge a record" does not
11 mean destruction of the record.

12 (2) "Expungement by redaction" provides for the expungement of records
13 of a person who is arrested or convicted with other persons who are not entitled to
14 expungement and involves the removal of the name or any other identifying
15 information of the person entitled to the expungement and otherwise retains the
16 records of the incident as they relate to the other persons.

17 (3) "Interim expungement" means to expunge a felony arrest from the
18 criminal history of a person who was convicted of a misdemeanor offense arising out
19 of the original felony arrest. Only the original felony arrest may be expunged in an
20 interim expungement.

21 (4) "Records" includes any incident reports, photographs, fingerprints,
22 disposition, or any other such information of any kind in relation to a single arrest
23 event in the possession of the clerk of court, any criminal justice agency, and local
24 and state law enforcement agencies but shall not include DNA records.

1 Art. 973. Effect of expunged record of arrest or conviction

2 A. An expunged record of arrest or conviction shall be confidential and no
 3 longer considered to be a public record and shall not be made available to any person
 4 or other entity except for the following:

5 (1) To a member of a law enforcement or criminal justice agency or
 6 prosecutor who shall request that information in writing, certifying that the request
 7 is for the purpose of investigating, prosecuting, or enforcing criminal law, for the
 8 purpose of any other statutorily defined law enforcement or administrative duties,
 9 or for the purposes of the requirements of sex offender registration and notification
 10 pursuant to the provisions of R.S. 15:540 et seq.

11 (2) On order of a court of competent jurisdiction and after a contradictory
 12 hearing for good cause shown.

13 (3) To the person whose record has been expunged or his counsel.

14 (4) To a member of a law enforcement or criminal justice agency,
 15 prosecutor, or judge, who requests that information in writing, certifying that the
 16 request is for the purpose of defending a law enforcement, criminal justice agency,
 17 or prosecutor in a civil suit for damages resulting from wrongful arrest or other civil
 18 litigation and the expunged record is necessary to provide a proper defense.

19 B. Upon written request therefor and on a confidential basis, the information
 20 contained in an expunged record may be released to the following entities that shall
 21 maintain the confidentiality of such record: the Office of Financial Institutions, the
 22 Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing,
 23 the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of
 24 Psychologists, the Louisiana Board of Pharmacy, the Louisiana State Board of Social
 25 Work Examiners, the Emergency Medical Services Certification Commission,
 26 Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, the
 27 Louisiana Supreme Court Committee on Bar Admissions, the Louisiana Department
 28 of Insurance, the Louisiana Licensed Professional Counselors Board of Examiners,
 29 or any person or entity requesting a record of all criminal arrests and convictions
 30 pursuant to R.S. 15:587.1, or as otherwise provided by law.

1 C. Except as to those persons and other entities set forth in Paragraph A of
2 this Article, no person whose record of arrest or conviction has been expunged shall
3 be required to disclose to any person that he was arrested or convicted of the subject
4 offense, or that the record of the arrest or conviction has been expunged.

5 D. Any person who fails to maintain the confidentiality of records as
6 required by the provisions of this Article shall be subject to contempt proceedings.

7 E. Nothing in this Article shall be construed to limit or impair in any way the
8 subsequent use of any expunged record of any arrests or convictions by a law
9 enforcement agency, criminal justice agency, or prosecutor including its use as a
10 predicate offense, for the purposes of the Habitual Offender Law, or as otherwise
11 authorized by law.

12 F. Nothing in this Article shall be construed to limit or impair the authority
13 of a law enforcement official to use an expunged record of any arrests or convictions
14 in conducting an investigation to ascertain or confirm the qualifications of any
15 person for any privilege or license as required or authorized by law.

16 G. Nothing in this Article shall be construed to limit or impair in any way
17 the subsequent use of any expunged record of any arrests or convictions by a "news-
18 gathering organization". For the purposes of this Title, "news-gathering
19 organization" means all of the following:

20 (1) A newspaper, or news publication, printed or electronic, of current news
21 and intelligence of varied, broad, and general public interest, having been published
22 for a minimum of one year and that can provide documentation of membership in a
23 statewide or national press association, as represented by an employee thereof who
24 can provide documentation of his employment with the newspaper, wire service, or
25 news publication.

26 (2) A radio broadcast station, television broadcast station, cable television
27 operator, or wire service as represented by an employee thereof who can provide
28 documentation of his employment.

1 H. Nothing in this Article shall be construed to relieve a person who is
2 required to register and provide notice as a child predator or sex offender of any
3 obligations and responsibilities provided in R.S. 15:541 et seq.

4 Art. 974. Dissemination of expunged records by third parties; court order

5 A. A private third-party entity, excluding a news-gathering organization, that
6 compiles and disseminates criminal history information for compensation shall not
7 disseminate any information in its possession regarding an arrest, conviction, or
8 other disposition after it has received notice of an issuance of a court order to
9 expunge the record of any such arrest or conviction. The provisions of this
10 Paragraph shall not apply to private third-party entities which are regulated by the
11 Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) or the Gramm-Leach-Bliley Act
12 (15 U.S.C. 6801-6809).

13 B. The person obtaining the expungement shall send notice of the order of
14 expungement by certified or registered mail with return receipt requested and a
15 certified copy of the order of expungement.

16 C. A private third-party entity that publicly disseminates criminal history
17 information in violation of this Article after having received notice as provided for
18 in Paragraph B of this Article, may be liable for any actual damages, court costs, and
19 attorney fees that are incurred by the person whose criminal history was
20 disseminated.

21 Art. 975. Individuals incarcerated; ineligible to file motion to expunge records

22 Notwithstanding any other provision of law to the contrary, a person in the
23 custody of the Department of Public Safety and Corrections, or incarcerated in any
24 correctional facility shall not be permitted to file a motion to expunge a record of an
25 arrest which did not result in a conviction or to expunge a record of an arrest and
26 conviction of a misdemeanor or felony offense.

27 Art. 976. Motion to expunge record of arrest that did not result in a conviction

28 A person may file a motion to expunge a record of his arrest for a felony or
29 misdemeanor offense that did not result in a conviction if any of the following apply:

1 (1) The person was not prosecuted for the offense for which he was arrested,
2 and the limitations on the institution of prosecution have barred the prosecution for
3 that offense.

4 (2) The district attorney for any reason declined to prosecute any offense
5 arising out of that arrest.

6 (3) Prosecution was instituted and such proceedings have been finally
7 disposed of by dismissal, sustaining of a motion to quash, or acquittal.

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

10 A. A person may file a motion to expunge his record of arrest and conviction
11 of a misdemeanor offense if either of the following apply:

12 (1) The conviction was set aside and the prosecution was dismissed pursuant
13 to Code of Criminal Procedure Article 894(B).

14 (2) More than five years have elapsed since the person completed any
15 sentence, deferred adjudication, or period of probation or parole, and the person has
16 not been convicted of any felony offense during the five-year period, and has no
17 felony charge pending against him. The motion filed pursuant to this Subparagraph
18 shall include a certification obtained from the district attorney which verifies that to
19 his knowledge the applicant has no felony convictions during the five-year period
20 and no pending felony charges under a bill of information or indictment.

21 B. The motion to expunge a record of arrest and conviction of a
22 misdemeanor offense shall be served pursuant to the provisions of Code of Criminal
23 Procedure Article 979.

24 C. No person shall be entitled to expungement of a record under either of the
25 following circumstances:

26 (1) The misdemeanor conviction arose from circumstances involving a sex
27 offense as defined in R.S. 15:541, except that an interim expungement shall be
28 available as authorized by the provisions of Code of Criminal Procedure Article
29 985.1.

1 (2) The misdemeanor conviction was for domestic abuse battery which was
2 not dismissed pursuant to Code of Criminal Procedure Article 894(B).

3 D.(1) Expungement of a record of arrest and conviction of a misdemeanor
4 offense shall occur only once with respect to any person during a five-year period,
5 unless the person was sentenced pursuant to Code of Criminal Procedure Article
6 894(B).

7 (2) Expungement of a record of arrest and conviction of a misdemeanor
8 offense of operating a vehicle while intoxicated shall occur only once with respect
9 to any person during a ten-year period.

10 Art. 978. Motion to expunge record of arrest and conviction of a felony offense

11 A. Except as provided in Paragraph B of this Article, a person may file a
12 motion to expunge his record of arrest and conviction of a felony offense if either of
13 the following apply:

14 (1) The conviction was set aside and the prosecution was dismissed pursuant
15 to Code of Criminal Procedure Article 893(E).

16 (2) More than ten years have elapsed since the person completed any
17 sentence, deferred adjudication, or period of probation or parole based on the felony
18 conviction, and the person has not been convicted of any other criminal offense
19 during the ten-year period, and has no criminal charge pending against him. The
20 motion filed pursuant to this Subparagraph shall include a certification obtained from
21 the district attorney which verifies that, to his knowledge, the applicant has no
22 convictions during the ten-year period and no pending charges under a bill of
23 information or indictment.

24 B. No expungement shall be granted nor shall a person be permitted to file
25 a motion to expunge the record of arrest and conviction of a felony offense if the
26 person was convicted of the commission or attempted commission of any of the
27 following offenses:

28 (1) Unless otherwise permissible under Code of Criminal Procedure Article
29 893(E), a crime of violence as defined by or enumerated in R.S. 14:2(B).

1 (2)(a) Notwithstanding any provision of Code of Criminal Procedure Article
 2 893, a sex offense or a criminal offense against a victim who is a minor as each term
 3 is defined by R.S. 15:541, or any offense which occurred prior to June 18, 1992, that
 4 would be defined as a sex offense or a criminal offense against a victim who is a
 5 minor had it occurred on or after June 18, 1992.

6 (b) Any person who was convicted of carnal knowledge of a juvenile (R.S.
 7 14:80) prior to August 15, 2001, is eligible for an expungement pursuant to the
 8 provisions of this Title if the offense for which the offender was convicted would be
 9 defined as misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the
 10 offender been convicted on or after August 15, 2001. The burden is on the mover
 11 to establish that the elements of the offense of conviction are equivalent to the
 12 current definition of misdemeanor carnal knowledge of a juvenile as defined by R.S.
 13 14:80.1. A copy of the order waiving the sex offender registration and notification
 14 requirements issued pursuant to the provisions of R.S. 15:542(F) shall be sufficient
 15 to meet this burden.

16 (3) Unless otherwise permissible under Code of Criminal Procedure Article
 17 893(E), a violation of the Uniform Controlled Dangerous Substances Law, except
 18 that a conviction for possession of a controlled dangerous substance as provided for
 19 in R.S. 40:966(C), 967(C), 968(C), or 969(C), or a conviction for possession of a
 20 controlled dangerous substance with the intent to distribute may be expunged
 21 pursuant to the provisions of this Title.

22 C. The motion to expunge a record of arrest and conviction of a felony
 23 offense shall be served pursuant to the provisions of Code of Criminal Procedure
 24 Article 979.

25 D. Expungement of a record of arrest and conviction of a felony offense
 26 shall occur only once with respect to any person during a fifteen-year period.

27 Art. 979. Service of motion to expunge a record
 28 The clerk of court shall serve notice of the motion of expungement by U.S.
 29 mail or electronically upon the following entities:

30 (1) The district attorney of the parish of conviction.

1 (2) The Louisiana Bureau of Criminal Identification and Information.

2 (3) The arresting law enforcement agency.

3 Art. 980. Contradictory hearing

4 A. Any entity named in Code of Criminal Procedure Article 979 that
 5 receives notice of the motion may object to the granting of a motion to expunge a
 6 record.

7 B.(1) Except as provided in Subparagraph (2) of this Paragraph, an objecting
 8 party shall file an affidavit of response with reasons for the objection in the record
 9 with service to the defendant within sixty days from the date of service of the motion
 10 and specifically state the grounds for the objection.

11 (2) If the Louisiana Bureau of Criminal Identification and Information
 12 objects to the granting of the motion to expunge a record, it shall file an affidavit of
 13 response with reasons for the objection in the record with service to the defendant
 14 within one hundred and twenty days from the date of the service of the motion until
 15 August 1, 2015. On August 1, 2015, and thereafter, if the Louisiana Bureau of
 16 Criminal Identification and Information objects to the granting of the motion to
 17 expunge a record, it shall file an affidavit of response with reasons for the objection
 18 in the record with service to the defendant within sixty days from the date of the
 19 service of the motion.

20 C. The court may grant an extension of time to file an objection not to
 21 exceed sixty days from the date of service of the motion to expunge a record.

22 D. Any objection timely filed shall have a contradictory hearing. If an
 23 objection is timely filed, the district attorney shall file a motion and order setting the
 24 matter for a contradictory hearing. A notice of hearing shall be served on the
 25 defendant and those persons provided for in Code of Criminal Procedure Article 979.

26 E. The objecting agency must show by a preponderance of the evidence why
 27 the motion of expungement should not be granted.

28 F. If no objection is filed by an agency listed under Article 979, the
 29 defendant may waive the contradictory hearing, and the court shall grant the motion

1 to expunge the record if the court determines that the mover is entitled to the
 2 expungement in accordance with law.

3 G. Any agency listed under Article 979 may expressly waive its time period
 4 to object by filing a formal "No Opposition" into the record.

5 Art. 981. Judgment granting motion to expunge a record of arrest or conviction;
 6 execution

7 A judgment ordering expungement of a record of arrest or of conviction of
 8 a misdemeanor or felony offense shall be served as provided for in Code of Criminal
 9 Procedure Article 982. The judgment shall not affect any persons or other entities
 10 set forth in Code of Criminal Procedure Article 979 or 982 who have not been served
 11 with the motion and judgment ordering the expungement of a record.

12 Art. 982. Service of order and judgment of expungement

13 The clerk of court shall serve the order and judgment of expungement of a
 14 record by U.S. mail or electronically upon all of the following entities:

- 15 (1) The district attorney of the parish of conviction.
- 16 (2) The Louisiana Bureau of Criminal Identification and Information.
- 17 (3) The sheriff of the parish of conviction.
- 18 (4) The arresting agency.

19 Art. 983. Costs of expungement of a record; fees; collection; exemptions;
 20 disbursements

21 A. Except as provided for in Code of Criminal Procedure Articles 894 and
 22 984, the total cost to obtain a court order expunging a record shall not exceed five
 23 hundred fifty dollars.

24 B. The nonrefundable processing fees for a court order expunging a record
 25 shall be as follows:

- 26 (1) The Louisiana Bureau of Criminal Identification and Information may
 27 charge a processing fee of two hundred fifty dollars for the expungement of any
 28 record of arrest when ordered to do so by the court in compliance with the provisions
 29 of this Title.

1 (2) The sheriff may charge a processing fee of fifty dollars for the
 2 expungement of any record of arrest when ordered to do so by the court in
 3 compliance with the provisions of this Title.

4 (3) The district attorney may charge a processing fee of fifty dollars for the
 5 expungement of any record of arrest when ordered to do so by the court in
 6 compliance with the provisions of this Title.

7 (4) The clerk of court may charge a processing fee not to exceed two
 8 hundred dollars to cover the clerk's costs of the expungement.

9 C. The clerk of court shall collect all processing fees at the time the motion
 10 for expungement is filed.

11 D.(1) The clerk shall immediately direct the collected processing fee
 12 provided for in Subparagraph (B)(1) of this Article to the Louisiana Bureau of
 13 Criminal Identification and Information, and the processing fee amount shall be
 14 deposited immediately upon receipt into the Criminal Identification and Information
 15 Fund.

16 (2) The clerk shall immediately direct the collected processing fees provided
 17 for in Subparagraphs (B)(2) and (3) of this Article to the sheriff and the district
 18 attorney, and the processing fee amount shall be remitted immediately upon receipt
 19 in equal proportions to the office of the district attorney and the sheriff's general
 20 fund.

21 E. The processing fees provided for by this Article are nonrefundable and
 22 shall not be returned even if the court does not grant the motion for expungement.

23 F. An applicant for the expungement of a record shall not be required to pay
 24 any fee to the clerk of court, the Louisiana Bureau of Criminal Identification and
 25 Information, sheriff, the district attorney, or any other agency to obtain or execute
 26 an order of a court of competent jurisdiction to expunge the arrest from the
 27 individual's arrest record if a certification obtained from the district attorney is
 28 presented to the clerk of court which verifies that the applicant has no felony
 29 convictions and no pending felony charges under a bill of information or indictment
 30 and at least one of the following applies:

1 (1) The applicant was acquitted, after trial, of all charges derived from the
2 arrest, including any lesser and included offense.

3 (2) The district attorney consents, and the case against the applicant was
4 dismissed or the district attorney declined to prosecute the case prior to the time
5 limitations prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure,
6 and the applicant did not participate in a pretrial diversion program.

7 (3) The applicant was arrested and was not prosecuted within the time
8 limitations prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure
9 and did not participate in a pretrial diversion program.

10 (4) The applicant was determined to be factually innocent and entitled to
11 compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8.

12 G. Notwithstanding any other provision of law to the contrary, a juvenile
13 who has successfully completed any juvenile drug court program operated by a court
14 of this state shall be exempt from payment of the processing fees otherwise
15 authorized by this Article.

16 Art. 984. Additional requirements for the expungement of records involving the
17 operation of a vehicle while intoxicated; additional fee

18 A. A person convicted of operating a vehicle while intoxicated shall be
19 required to supplement the motions required in this Title with proof in the form of
20 a certified letter from the Department of Public Safety and Corrections, office of
21 motor vehicles, that the person has complied with the requirements of this Article.
22 The certified letter shall be attached to the motion to expunge the record of arrest and
23 conviction for operating a vehicle while intoxicated.

24 B. The court shall order the clerk of court to mail to the Department of
25 Public Safety and Corrections, office of motor vehicles, all of the following as
26 provided by the defendant:

27 (1) A certified copy of the record of the plea of guilty or nolo contendere.

28 (2) Fingerprints of the defendant.

1 (3) Proof that the defendant meets the requirements as set forth in Code of
2 Criminal Procedure Article 556 or 556.1 which shall include the defendant's date of
3 birth, social security number, and driver's license number.

4 C. An additional fifty dollar court cost shall be assessed at this time against
5 the defendant and paid to the Department of Public Safety and Corrections, office of
6 motor vehicles, for the costs of storage and retrieval of the records.

7 Art. 985. Expungement by redaction of records with references to multiple
8 individuals

9 A. If a record includes the name of more than one individual and one or
10 more of the individuals is entitled to an expungement of an arrest or conviction
11 pursuant to the provisions of this Title, any individual entitled to an expungement
12 may petition the court to have records related to the arrest or conviction of the
13 individual expunged by redaction.

14 B. If the court grants the expungement by redaction, the name of the
15 individual and all other identifying information regarding the individual granted the
16 expungement by redaction shall be redacted from all records regarding the arrest and
17 conviction. The redacted records shall be available for public access.

18 C. The clerk of court shall not be liable for any damages resulting to any
19 person or entity as a consequence of expunging or redacting or for the failure to
20 expunge or redact any record where the expungement order does not specifically
21 identify all locations of the records to be expunged or specify the information to be
22 redacted.

23 Art. 985.1. Interim motion to expunge a felony arrest from criminal history in
24 certain cases resulting in a misdemeanor conviction

25 A. A person may file an interim motion to expunge a felony arrest from his
26 criminal history when that original arrest results in a conviction for a misdemeanor.
27 In such cases, only the original felony arrest may be expunged.

28 B. The interim motion to expunge a felony arrest which results in a
29 misdemeanor conviction from criminal history is separate and distinct from an

1 expungement of a final conviction pursuant to Code of Criminal Procedure Articles
2 976, 977, and 978.

3 C. Except as provided in Paragraph D of this Article, an interim motion to
4 expunge a felony arrest from criminal history shall follow the same procedures and
5 fees established pursuant to the provisions of Code of Criminal Procedure Article
6 979, et seq.

7 D. An interim motion to expunge shall not be subject to the time limitations
8 provided for in Articles 977(A)(2) or 978(A)(2), and there shall be no restriction on
9 the number of interim expungements which may be granted.

10 Art. 986. Forms for the expungement of records

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

16 B. Supplemental forms may be added to any petition as long as they adhere
17 to the form provided for in Article 993.

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**STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF**

No.: _____ **Division: " _____ "**

State of Louisiana

vs.

RULE TO SHOW CAUSE

IT IS HEREBY ORDERED, that the District Attorney show cause on the _____ day of _____, 20 _____, at _____ o'clock __m why the foregoing motion should not be granted.

THUS ORDERED AND SIGNED this _____ day of _____, 20 _____ at _____, Louisiana, _____.

JUDGE

PLEASE SERVE:

1. District Attorney: _____
2. Attorney for Defendant and/or Defendant _____

**STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF**

No.: _____ **Division: " _____ "**

State of Louisiana

vs.

ORDER OF DISMISSAL

Considering the Motion to Set Aside Conviction and Dismiss Prosecution, the hearing conducted on the representation of the State of Louisiana of its consent hereto, and that there is no opposition for any good cause appearing herein;

IT IS ORDERED, ADJUDGED AND DECREED that this conviction is set aside and the prosecution dismissed for purposes of expungement.

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OR

The arrestee listed above WAS NOT PROSECUTED WITHIN THE TIME LIMITATIONS prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure and the arrestee did not participate in a pretrial diversion program for the arrest listed above.

OR

The case involving the arrestee listed above was dismissed or the district attorney declined to prosecute the case prior to the time limitations prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure, and the arrestee did not participate in a pretrial diversion program.

OR

The arrestee listed above has been determined to be factually innocent and entitled to compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8.

District Attorney or his designee - Print Name

_____, 20____"
District Attorney or his designee - Signature Date

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)

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

GENDER _____ Female _____ Male

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

RACE: _____

1 DRIVER LIC.# _____

2 ARRESTING AGENCY: _____

3 SID# (if available): _____

4 ARREST NUMBER: _____

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

8 **II. ARREST INFORMATION**

9 1. Mover was arrested on ____/____/____ (MM/DD/YYYY)

10 2. ____ YES ____ NO A supplemental sheet with arrests and/or
11 convictions is attached after page 2 of this
12 Motion.

13 3. Mover was:
14 ____ YES ____ NO Arrested, but it did not result in conviction
15 ____ YES ____ NO Convicted of and seeks to expunge a
16 misdemeanor
17 ____ YES ____ NO Convicted of and seeks to expunge a felony

18 4. Mover was booked and/or charged with the following offenses: (List each
19 offense booked and charged separately. Attach a supplemental sheet, if
20 necessary.)

21 ____ Yes ____ No **ARRESTS THAT DID NOT RESULT IN CONVICTION**

22 **ITEM NO. 1** La. Rev. Stat. Ann. § _____ : _____
23 Name of the offense _____
24 () Time expired for prosecution _____
25 (MM/DD/YYYY)
26 () Not prosecuted for any offense
27 arising out of this charge.
28 () Pre-trial Diversion Program.
29 () DWI Pre-Trial Diversion Program
30 and 5 years have elapsed since the
31 date of arrest.
32 () Charge dismissed
33 () Found not guilty/judgment of acquittal

34 **ITEM NO. 2** La. Rev. Stat. Ann. § _____ : _____
35 Name of the offense _____
36 () Time expired for prosecution _____
37 (MM/DD/YYYY)
38 () Not prosecuted for any
39 offense arising out of this charge.
40 () Pre-trial Diversion Program.
41 () Charge dismissed
42 () Found not guilty/judgment of acquittal

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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 "

Art. 990. Affidavit of response form to be used

" **STATE OF LOUISIANA**
JUDICIAL DISTRICT FOR THE PARISH OF

No.: _____ **Division:** " _____ "

State of Louisiana

vs.

AFFIDAVIT OF RESPONSE

Pursuant to Louisiana Code of Criminal Procedure Article 980, the District

Attorney for the Parish of _____ acknowledges the following:

- No Opposition.** Respondent respectfully consents to waiver of the contradictory hearing.
- Opposition to the Motion of Expungement with Reasons.** Respondent respectfully requests a contradictory hearing.

OR

1 Pursuant to Louisiana Code of Criminal Procedure Article 980, the Louisiana
2 Bureau of Criminal Identification and Information acknowledges the following:

3 **No Opposition.** Respondent respectfully consents to waiver of the
4 contradictory hearing.

5 **Opposition to the Motion of Expungement with Reasons.** Respondent
6 respectfully requests a contradictory hearing.

7 **OR**

8 Pursuant to Louisiana Code of Criminal Procedure Article 980, the arresting
9 law enforcement agency_____acknowledges the following:

10 **No Opposition.** Respondent respectfully consents to waiver of the
11 contradictory hearing.

12 **Opposition to the Motion of Expungement with Reasons.** Respondent
13 respectfully requests a contradictory hearing.

14 Respectfully submitted,

15 _____
16 Signature of Attorney

17 _____
18 Attorney's Bar Roll No.

19 _____
20 Address

21 _____
22 City, State, ZIP Code

23 _____
24 Telephone Number

25 **PLEASE SERVE:**

26 1. District Attorney:_____

27 2. Louisiana Bureau of Criminal Identification and Information_____

28 3. The Arresting Law Enforcement Agency_____

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 Item(s) No. _____ 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
23 Law which is ineligible to be expunged.

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

28 An offense defined or enumerated as a "crime of violence"
29 pursuant to La. Rev. Stat. Ann. 14:2(B) at the time the
30 Motion was filed.

31 The arrest and conviction being sought to have expunged is for
32 operating a motor vehicle while intoxicated and a copy of the proof
33 from the Department of Public Safety and Corrections, office of
34 motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).

35 Mover has had another record of misdemeanor conviction expunged
36 during the previous five-year period.

37 The record of arrest and conviction which Mover seeks to have
38 expunged is for operating a motor vehicle while intoxicated and
39 Mover has had another record of arrest and misdemeanor conviction
40 expunged during the previous ten-year period.

- 1 Mover has had another record of felony conviction expunged during
2 the previous fifteen-year period.
- 3 Mover was convicted of a misdemeanor which arose from
4 circumstances involving a sex offense as defined in R.S. 15:541.
- 5 Mover was convicted of misdemeanor offense of domestic abuse
6 battery which was not dismissed pursuant to Code of Criminal
7 Procedure Article 894(B).
- 8 Mover did not complete pretrial diversion.
- 9 The charges against the mover were not dismissed or refused.
- 10 Mover's felony conviction was not set aside and dismissed pursuant
11 to Code of Criminal Procedure Article 893(E).
- 12 Mover's felony conviction was not set aside and dismissed pursuant
13 to Code of Criminal Procedure Article 894(B).
- 14 Mover completed a DWI pretrial diversion program, but five years
15 have not elapsed since the mover's date of arrest.
- 16 Mover's conviction for felony carnal knowledge of a juvenile is not
17 defined as misdemeanor carnal knowledge of a juvenile had the
18 mover been convicted on or after August 15, 2001.
- 19 Denial for any other reason provided by law with attached reasons for
20 denial.
- 21 **THE MOTION IS HEREBY GRANTED** for Item(s) No.
22 _____ and all agencies are ordered to expunge the record of
23 arrest/conviction and any photographs, fingerprints, or any other such information
24 of any kind maintained in connection with the Arrest(s)/Conviction(s) in the above-
25 captioned matter, which record shall be confidential and no longer considered a
26 public record, nor be available to other persons except a prosecutor, member of a law
27 enforcement agency, or a judge who may request such information in writing
28 certifying that such request is for the purpose of prosecuting, investigating, or
29 enforcing the criminal law, for the purpose of any other statutorily defined law
30 enforcement or administrative duties, or for the purpose of the requirements of sex
31 offender registration and notification pursuant to the provisions of R.S. 15:541, et
32 seq. or upon an order of this Court to any other person for good cause shown, or as
33 otherwise authorized by law.

1 NAME: _____
2 (Last, First, MI)

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

4 GENDER: ____ Female ____ Male

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

6 RACE: _____

7 DRIVER LIC.# _____

8 ARRESTING AGENCY: _____

9 SID# (if available): _____

10 ARREST NUMBER: _____

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

12 **THUS ORDERED AND SIGNED** this ____ day of _____, 20
13 ____ at _____, Louisiana.

14 _____
15 JUDGE

16 **PLEASE SERVE:**

- 17 1. District Attorney: _____
- 18 2. Arresting Agency: _____
- 19 3. Parish Sheriff: _____
- 20 4. Louisiana Bureau of Criminal Identification and Information _____
- 21 5. Attorney for Defendant (or defendant) _____ "

22 Art. 993. Supplemental forms to be used

23 " **SUPPLEMENTAL SHEET**

24 ____ Yes ____ No **ARRESTS THAT DID NOT RESULT IN CONVICTION**

25 ITEM NO.	La. Rev. Stat. Ann.	§ _____ :	_____
26	Name of the offense		_____
27	() Time expired for prosecution		____/____/____
28			(MM/DD/YYYY)
29	() Charge refused by DA - not prosecuted.		
30	() Pre-trial Diversion Program.		
31	() Charge dismissed		
32	() Found not guilty/judgment of acquittal		

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

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SUPPLEMENTAL SHEET

____ **Yes** ____ **No** **FELONY CONVICTIONS**

ITEM NO. La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
() Conviction set aside/dismissed _____/_____/_____
pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
() More than 10 years have passed
since completion of sentence

ITEM NO. La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
() Conviction set aside/dismissed _____/_____/_____
pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
() More than 10 years have passed
since completion of sentence

ITEM NO. La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
() Conviction set aside/dismissed _____/_____/_____
pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
() More than 10 years have passed
since completion of sentence

ITEM NO. La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
() Conviction set aside/dismissed _____/_____/_____
pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
() More than 10 years have passed
since completion of sentence

ITEM NO. La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
() Conviction set aside/dismissed _____/_____/_____
pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
() More than 10 years have passed
since completion of sentence

ITEM NO. La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
() Conviction set aside/dismissed _____/_____/_____
pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
() More than 10 years have passed
since completion of sentence

ITEM NO. La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
() Conviction set aside/dismissed _____/_____/_____
pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
() More than 10 years have passed
since completion of sentence

ITEM NO. La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
() Conviction set aside/dismissed _____/_____/_____
pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
() More than 10 years have passed
since completion of sentence

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

1	ITEM NO.	La. Rev. Stat. Ann.	§ _____ : _____
2		Name of the offense	_____
3		() Conviction set aside/dismissed	_____/_____/_____
4		pursuant to C.Cr.P. Art. 893(E)	(MM/DD/YYYY)
5		() More than 10 years have passed	
6		since completion of sentence	" "

7 Art. 994. Motion for interim expungement form to be used

8 **"STATE OF LOUISIANA**
9 **JUDICIAL DISTRICT FOR THE PARISH OF**
10 _____

11 **No.:** _____ **Division: "** _____ **"**

12 **State of Louisiana**

13 **vs.**

14 _____

15 **MOTION FOR INTERIM EXPUNGEMENT**

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

18 **I. DEFENDANT INFORMATION**

19 NAME: _____
20 (Last, First, MI)

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

22 GENDER _____ Female _____ Male

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

24 RACE: _____

25 DRIVER LIC.# _____

26 ARRESTING AGENCY: _____

27 SID# (if available): _____

28 ARREST NUMBER: _____

29 Mover is entitled to an interim expungement of the entry of the felony
30 charge(s) of his arrest pursuant to Louisiana Code of Criminal Procedure Article
31 985.1 and states the following in support:

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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

PLEASE SERVE:

- 1. District Attorney _____
- 2. Louisiana Bureau of Criminal Identification and Information _____
- 3. Arresting Agency _____ "

Art. 995. Order of interim expungement form to be used

**"STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF**

No.: _____ **Division:** " _____ "

State of Louisiana

vs.

ORDER OF EXPUNGEMENT OF INTERIM ARREST 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 the following reasons (check all that apply):
 - Mover was not arrested for a felony.

1 Section 4. The Louisiana State Law Institute is hereby directed to delete any
2 references to R.S. 44:9 in Louisiana law and to make any necessary changes to Louisiana
3 law to reflect the provisions of this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____