

SENATE BILL NO. 116

BY SENATOR JACKSON-ANDREWS AND REPRESENTATIVE KNOX

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 978(A)(2) and 992 and to enact Code of Criminal Procedure Art. 978(F), relative to expungement of records; to provide for the expungement of a felony record with another felony conviction during the ten-year cleansing period under certain circumstances; to provide relative to expungement forms; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 978(A)(2) and 992 are hereby amended and reenacted and Code of Criminal Procedure Art. 978(F) is hereby enacted to read as follows:

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

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

* * *

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

* * *

F. A person shall be eligible to have more than one felony conviction expunged in a ten-year period if each felony is eligible for expungement under the provisions of this Article.

* * *

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.
- An offense currently listed as a sex offense that requires registration pursuant to R.S. 15:540 et seq., at the time the Motion was filed, regardless of whether the duty to register was ever imposed.
- An offense defined or enumerated as a "crime of violence" pursuant to R.S. 14:2(B) at the time the Motion was filed.
- The arrest and conviction being sought to have expunged is for operating a motor vehicle while intoxicated and a copy of the proof from the Department of Public Safety and Corrections, office of motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).

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- Mover was convicted of a misdemeanor which arose from circumstances involving a sex offense as defined in R.S. 15:541.
- Mover was convicted of misdemeanor offense of domestic abuse battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
- Mover did not complete pretrial diversion.
- The charges against the mover were not dismissed or refused.
- Mover's felony conviction was not set aside and dismissed pursuant to C.Cr.P. Art. 893(E).
- Mover's felony conviction was not set aside and dismissed pursuant to C.Cr.P. Art. 894(B).
- Mover completed a DWI pretrial diversion program, but five years have not elapsed since the mover's date of arrest.
- Mover's conviction for felony carnal knowledge of a juvenile is not defined as misdemeanor carnal knowledge of a juvenile had the mover been convicted on or after August 15, 2001.
- Mover was not convicted of a crime that would be eligible for expungement as required by C.Cr.P. Art. 978(E)(1).
- Mover has criminal charges pending against him.
- Mover was convicted of a criminal offense during the ten-year period, **excluding any noncapital felony during the preceding ten-year period that would otherwise be eligible for expungement pursuant to C.Cr.P. Art. 978(F).**
- Mover received a first offender pardon but for an ineligible offense.
- Mover did not receive a first offender pardon.
- Denial for any other reason provided by law with attached reasons for denial.
- THE MOTION IS HEREBY GRANTED** for No(s). _____ and all agencies are ordered to expunge the record of arrest/conviction and any photographs, fingerprints, or any other such information of any kind maintained in connection with the Arrest(s)/Conviction(s) in the above-captioned matter, which record shall be confidential and no longer considered a public record, nor be available to other persons except a prosecutor, member of a law enforcement agency, or a judge who may request such information in writing certifying that such request is for the purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose of any other statutorily defined law enforcement or administrative duties, or for the purpose of the requirements of sex offender registration and notification pursuant to the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other person for good cause shown, or as otherwise authorized by law.
- THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT BY REDACTION** If the record includes more than one individual and the mover is entitled to expungement

1 by redaction pursuant to Code of Criminal Procedure Article 985, for No(s). _____ and all
 2 agencies are ordered to expunge the record of arrest/conviction and any photographs, fingerprints, or any
 3 other such information of any kind maintained in relation to the Arrest(s)/Conviction(s) in the above-
 4 captioned matter as they relate to the mover only. The record shall be confidential and no longer
 5 considered a public record, nor be available to other persons except a prosecutor, member of a law
 6 enforcement agency, or a judge who may request such information in writing certifying that such request
 7 is for the purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose of any other
 8 statutorily defined law enforcement or administrative duties, or for the purpose of the requirements of sex
 9 offender registration and notification pursuant to the provisions of R.S. 15:541 et seq. or upon an order
 10 of this Court to any other person for good cause shown, or as otherwise authorized by law.

11 NAME: _____
 12 (Last, First, MI)

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

16 GENDER: ____ Female ____ Male

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

20 RACE: _____

22 DRIVER LIC.# _____

24 ARRESTING AGENCY: _____

26 SID# (if available): _____

28 ARREST NUMBER (ATN): _____

30 AGENCY ITEM NUMBER: _____

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

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

37 at _____, Louisiana.

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JUDGE

PLEASE SERVE:

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____