

2019 Regular Session

SENATE BILL NO. 98

BY SENATOR PRICE

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

CRIMINAL RECORDS. Provides relative to expungement. (8/1/19)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

AN ACT

To amend and reenact Code of Criminal Procedure Art. 978(A)(2), (D), and (E)(1)(a), (b), and (d) and (2), relative to expungement; to shorten the cleansing period after which a person may seek an expungement of felony offense records under certain circumstances; to provide additional conditions upon which expungement of certain felony offenses may be granted by the court; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 978(A)(2), (D), and (E)(1)(a), (b), and (d) and (2) are hereby amended and reenacted 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 either of the following apply:

\* \* \*

(2) More than ~~ten~~ **five** 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

1 during the ~~ten-year~~ **five-year** period, and has no criminal charge pending against  
 2 him. The motion filed pursuant to this Subparagraph shall include a certification  
 3 obtained from the district attorney which verifies that, to his knowledge, the  
 4 applicant has no convictions during the ~~ten-year~~ **five-year** period and no pending  
 5 charges under a bill of information or indictment.

6 \* \* \*

7 D. Expungement of a record of arrest and conviction of a felony offense shall  
 8 occur only once with respect to any person during a ~~fifteen-year~~ **ten-year** period.  
 9 The limitation provided in this Paragraph shall not apply to a person who is seeking  
 10 the expungement of his record of arrest and conviction for a conviction that was set  
 11 aside and the prosecution dismissed pursuant to Article 893(E).

12 E.(1) Notwithstanding any other provision of law to the contrary, after a  
 13 contradictory hearing, the court may order the expungement of the arrest and  
 14 conviction records of a person pertaining to a conviction of aggravated battery,  
 15 second degree battery, aggravated criminal damage to property, simple robbery,  
 16 purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the  
 17 following conditions are proven by the petitioner:

18 (a) More than ~~ten~~ **five** years have elapsed since the person completed any  
 19 sentence, deferred adjudication, or period of probation or parole based on the felony  
 20 conviction.

21 (b) The person has not been convicted of any other criminal offense during  
 22 the ~~ten-year~~ **five-year** period.

23 \* \* \*

24 (d) The person has been employed for a period of ~~ten~~ **five** consecutive years,  
 25 **or can show that he has applied for positions of employment for sixty**  
 26 **consecutive months, or that because of some physical or mental impairment, as**  
 27 **established by a physician's statement, the person is not able to work.**

28 (2) The motion filed pursuant to this Paragraph shall include a certification  
 29 from the district attorney which verifies that, to his knowledge, the applicant has no

1 convictions during the ~~ten-year~~ **five-year** period and no pending charges under a bill  
 2 of information or indictment. The motion shall be heard by contradictory hearing as  
 3 provided by Article 980.

---

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

---

## DIGEST

SB 98 Original

2019 Regular Session

Price

Present law provides that a person may file a motion to expunge his record of arrest and conviction of a felony offense if more than 10 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 that 10 year period, and has no criminal charge pending against him. Present law further provides that the motion to expunge must include a certification obtained from the district attorney that verifies that the applicant has no convictions during the 10-year period and no pending charges under a bill of information or indictment.

Proposed law changes the "cleansing period" after which a person is eligible for an expungement from 10 years to five years.

Proposed law otherwise retains present law.

Present law provides that expungement of a record of arrest and conviction of a felony offense can occur only once with respect to any person during a 15-year period.

Proposed law changes the period of time during which an expungement can occur only once from 15 years to 10 years.

Present law provides that, after a contradictory hearing, the court may order the expungement of the arrest and conviction records of a person pertaining to a conviction of aggravated battery, second degree battery, aggravated criminal damage to property, simple robbery, purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the following conditions are proven by the petitioner:

- (1) More than 10 years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction.
- (2) The person has not been convicted of any other criminal offense during the 10-year period.
- (3) The person has no criminal charge pending against him.
- (4) The person has been employed for a period of 10 consecutive years.

Present law further provides that the motion to expunge filed pursuant to present law must include a certification from the district attorney that verifies that the applicant has no convictions during the 10-year period and no pending charges under a bill of information or indictment.

Proposed law changes the "cleansing period" after which a person convicted of certain present law offenses may be eligible for an expungement from 10 years to five years. Present law further provides that the person may also be eligible for an expungement if he can show that he has applied for positions of employment for 60 consecutive months, or that because

of some physical or mental impairment, as established by a physician's statement, the person is not able to work.

Proposed law otherwise retains present law.

Effective August 1, 2019.

(Amends C.Cr.P. Art. 978(A)(2), (D), and (E)(1)(a), (b), and (d) and (2))