

Regular Session, 2014

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, PYLANT, SMITH, ST. GERMAIN, THIERRY, PATRICK WILLIAMS, AND WOODRUFF AND SENATORS GALLOT, GUILLORY, MARTINY, MILLS, AND MORRELL

CRIMINAL/PROCEDURE: Revises provisions of law regarding expungement

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

1 granting an expungement; to provide for contradictory hearings; to prohibit
2 incarcerated individuals from filing a motion to expunge an arrest or conviction
3 record; to provide for the interim expungement of certain arrests from criminal
4 history records; to provide for exceptions to the public records law; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Title XXXIV of the Code of Criminal Procedure, comprised of Articles
8 971 through 995, is hereby enacted to read as follows:

9 Art. 971. Legislative findings

10 The legislature hereby finds and declares the following:

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

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

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

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

26 (5) The need for employment must be balanced appropriately against the
27 desire for public safety. Nothing in this Title shall be construed to limit or impair in
28 any way the subsequent use of any expunged record of arrest or conviction in any
29 lawful manner by law enforcement, law enforcement agencies, prosecutors, or

1 judges, including its use as a predicate offense or for the provisions of the Habitual
2 Offender Law.

3 (6) It is the intention of the legislature that this Title will provide
4 opportunities to break the cycle of criminal recidivism, increase public safety, and
5 assist the growing population of criminal offenders reentering the community to
6 establish a self-sustaining life through opportunities in employment.

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

10 Art. 972. Definitions

11 As used in this Title:

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

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

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

25 (4) "Records" includes any incident reports, photographs, fingerprints,
26 disposition, or any other such information of any kind in relation to a single arrest
27 event in the possession of the clerk of court, any criminal justice agency, and local
28 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,

1 or any person or entity requesting a record of all criminal arrests and convictions
2 pursuant to R.S. 15:587.1, or as otherwise provided by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (1) The misdemeanor conviction arose from circumstances involving a sex
2 offense as defined in R.S. 15:541, except that an interim expungement shall be
3 available as authorized by the provisions of Code of Criminal Procedure Article
4 985.1.

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

7 D.(1) Expungement of a record of arrest and conviction of a misdemeanor
8 offense shall occur only once with respect to any person during a five-year period,
9 unless the person was sentenced pursuant to Code of Criminal Procedure Article
10 894(B).

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

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

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

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

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

28 B. No expungement shall be granted nor shall a person be permitted to file
29 a motion to expunge the record of arrest and conviction of a felony offense if the

1 person was convicted of the commission or attempted commission of any of the
2 following offenses:

3 (1) Unless otherwise permissible under Code of Criminal Procedure Article
4 893(E), a crime of violence as defined by or enumerated in R.S. 14:2(B).

5 (2)(a) Notwithstanding any provision of Code of Criminal Procedure Article
6 893, a sex offense or a criminal offense against a victim who is a minor as each term
7 is defined by R.S. 15:541, or any offense which occurred prior to June 18, 1992, that
8 would be defined as a sex offense or a criminal offense against a victim who is a
9 minor had it occurred on or after June 18, 1992.

10 (b) Any person who was convicted of carnal knowledge of a juvenile (R.S.
11 14:80) prior to August 15, 2001, is eligible for an expungement pursuant to the
12 provisions of this Title if the offense for which the offender was convicted would be
13 defined as misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the
14 offender been convicted on or after August 15, 2001. The burden is on the mover
15 to establish that the elements of the offense of conviction are equivalent to the
16 current definition of misdemeanor carnal knowledge of a juvenile as defined by R.S.
17 14:80.1. A copy of the order waiving the sex offender registration and notification
18 requirements issued pursuant to the provisions of R.S. 15:542(F) shall be sufficient
19 to meet this burden.

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

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

1 D. Expungement of a record of arrest and conviction of a felony offense

2 shall occur only once with respect to any person during a fifteen-year period.

3 Art. 979. Service of motion to expunge a record

4 The clerk of court shall serve notice of the motion of expungement by U.S.
5 mail or electronically upon the following entities:

6 (1) The district attorney.

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

8 (3) The arresting law enforcement agency.

9 Art. 980. Contradictory hearing

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

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

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

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

28 D. Any objection timely filed shall have a contradictory hearing. If an
29 objection is timely filed, the district attorney shall file a motion and order setting the

1 matter for a contradictory hearing. A notice of hearing shall be served on the
2 defendant and those persons provided for in Code of Criminal Procedure Article 979.

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

5 F. If no objection is filed by an agency listed under Article 979, the
6 defendant may waive the contradictory hearing, and the court shall grant the motion
7 to expunge the record if the court determines that the mover is entitled to the
8 expungement in accordance with law.

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

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

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

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

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

21 (1) The district attorney.

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

23 (3) The sheriff of the parish of conviction.

24 (4) The arresting agency.

25 Art. 983. Costs of expungement of a record; fees; collection; exemptions;
26 disbursements

27 A. Except as provided for in Code of Criminal Procedure Articles 894 and
28 984, the total cost to obtain a court order expunging a record shall not exceed five
29 hundred fifty dollars.

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

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

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

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

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

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

17 D.(1) The clerk shall immediately direct the collected processing fee
18 provided for in Subparagraph (B)(1) of this Article to the Louisiana Bureau of
19 Criminal Identification and Information, and the processing fee amount shall be
20 deposited immediately upon receipt into the Criminal Identification and Information
21 Fund.

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

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

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

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

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

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

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

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

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

26 A. A person convicted of operating a vehicle while intoxicated shall be
27 required to supplement the motions required in this Title with proof in the form of
28 a certified letter from the Department of Public Safety and Corrections, office of
29 motor vehicles, that the person has complied with the requirements of this Article.

1 The certified letter shall be attached to the motion to expunge the record of arrest and
2 conviction for operating a vehicle while intoxicated.

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

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

7 (2) Fingerprints of the defendant.

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

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

14 Art. 985. Expungement by redaction of records with references to multiple
15 individuals

16 A. If a record includes the name of more than one individual and one or
17 more of the individuals is entitled to an expungement of an arrest or conviction
18 pursuant to the provisions of this Title, any individual entitled to an expungement
19 may petition the court to have records related to the arrest or conviction of the
20 individual expunged by redaction.

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

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

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

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

6 B. The interim motion to expunge a felony arrest which results in a
7 misdemeanor conviction from criminal history is separate and distinct from an
8 expungement of a final conviction pursuant to Code of Criminal Procedure Articles
9 976, 977, and 978.

10 C. Except as provided in Paragraph D of this Article, an interim motion to
11 expunge a felony arrest from criminal history shall follow the same procedures and
12 fees established pursuant to the provisions of Code of Criminal Procedure Article
13 979, et seq.

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

17 Art. 986. Forms for the expungement of records

18 A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,
19 994, and 995 shall be used for filing motions to expunge a record of an arrest which
20 did not result in a conviction, for the expungement of a record of arrest and
21 conviction of a misdemeanor or felony offense, or for an interim motion to expunge
22 a felony offense which resulted in a misdemeanor conviction.

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

1 Art. 987. Motion to set aside conviction and dismiss prosecution; rule to show
2 cause; order of dismissal forms to be used

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

5 _____

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

7 **State of Louisiana**

8 **vs.**

9 _____

10 **MOTION TO SET ASIDE CONVICTION AND**
11 **DISMISS PROSECUTION**

12 NOW INTO HONORABLE COURT, comes

13 Defendant, OR

14 Defendant through undersigned Counsel,

15 who moves that the conviction pursuant to Louisiana Code of Criminal Procedure

16 894(B) Misdemeanors, OR

17 893(E) Felonies

18 in the above numbered case be set aside and that the prosecution dismissed in
19 accordance with the Code of Criminal Procedure in that the period of the deferred
20 sentence has run and petitioner has successfully completed the terms of his
21 probation.

22 The mover is further identified below:

23 DOCKET NUMBER: _____

24 CHARGE: _____

25 DATE OF ARREST: _____

26 ARRESTING AGENCY: _____

27 CITY/PARISH OF ARREST: _____

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

1 The Mover prays that, after a contradictory hearing with the District
2 Attorney's Office, the Court order the above numbered case be set aside and that the
3 prosecution dismissed in accordance with the Code of Criminal Procedure.

4 Respectfully submitted,

5
6 _____
Signature of Attorney for Mover/Defendant

7 _____
8 Attorney for Mover/Defendant Name

9 _____
10 Attorney's Bar Roll No.

11 _____
12 Address

13 _____
14 City, State, ZIP Code

15 _____
16 Telephone Number

17 **If not represented by counsel:**

18 _____
19 Signature of Mover/Defendant

20 _____
21 Mover/Defendant Name

22 _____
23 Address

24 _____
25 City, State, ZIP Code

26 _____
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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 _____

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**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.

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

JUDGE

PLEASE SERVE:

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

1 Art. 988. Motion for fee exemption 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 **CERTIFICATION OF FEE WAIVER**

10 *To be completed by defendant and submitted to the District Attorney's Office prior*
11 *to filing. Append completed form to Motion of Expungement at filing only if eligible.*

12 DEFENDANT NAME	
13 DATE OF BIRTH	
14 SSN#	
15 DATE OF ARREST	
16 DOCKET NUMBER	
17 CHARGE	

18 In accordance with Louisiana Code of Criminal Procedure Article 983, the Office of
19 the District Attorney has reviewed the available databases and determined that
20 *(Check all that apply. To be completed by authorized personnel from the District*
21 *Attorney's Office and returned within 15 days to defendant.):*

22 The arrestee listed above has NO FELONY CONVICTIONS.

23 **AND**

24 The arrestee listed above has NO PENDING FELONY CHARGES UNDER
25 A BILL OF INDICTMENT OR INFORMATION.

26 **AND**

27 The arrestee listed above WAS ACQUITTED after trial of all charges
28 derived from the arrest listed above, including any lesser and included
29 offense.

30 **OR**

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

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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: _____

DRIVER LIC.# _____

ARRESTING AGENCY: _____

SID# (if available): _____

1 ARREST NUMBER: _____

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

5 **II. ARREST INFORMATION**

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

7 2. ____ YES ____ NO A supplemental sheet with arrests and/or
8 convictions is attached after page 2 of this
9 Motion.

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

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

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

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

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

1 **ITEM NO. 3** La. Rev. Stat. Ann. § _____ : _____
 2 Name of the offense _____
 3 () Time expired for prosecution _____
 4 (MM/DD/YYYY)
 5 () Not prosecuted for any offense
 6 arising out of this charge.
 7 () Pre-trial Diversion Program.
 8 () Charge dismissed
 9 () Found not guilty/judgment of acquittal

10 ___ Yes ___ No **MISDEMEANOR CONVICTIONS**

11 **ITEM NO. 1** La. Rev. Stat. Ann. § _____ : _____
 12 Name of the offense _____
 13 () Conviction set aside/dismissed _____/____/_____
 14 (MM/DD/YYYY) pursuant to C.Cr.P. Art. 894(B)
 15 () More than 5 years have passed
 16 since completion of sentence.

17 **ITEM NO. 2** La. Rev. Stat. Ann. § _____ : _____
 18 Name of the offense _____
 19 () Conviction set aside/dismissed _____/____/_____
 20 (MM/DD/YYYY) pursuant to C.Cr.P. Art. 894(B)
 21 () More than 5 years have passed
 22 since completion of sentence.

23 ___ Yes ___ No **FELONY CONVICTIONS**

24 **ITEM NO. 1** La. Rev. Stat. Ann. § _____ : _____
 25 () Conviction set aside/dismissed _____/____/_____
 26 (MM/DD/YYYY) pursuant to C.Cr.P. Art. 893(E)
 27 () More than 10 years have passed
 28 since completion of sentence

29 **ITEM NO. 2** La. Rev. Stat. Ann. § _____ : _____
 30 () Conviction set aside/dismissed _____/____/_____
 31 (MM/DD/YYYY) pursuant to C.Cr.P. Art. 893(E)
 32 () More than 10 years have passed
 33 since completion of sentence

34 ___ Yes ___ No **OPERATING A MOTOR VEHICLE WHILE**
 35 **INTOXICATED CONVICTIONS**

36 Mover has attached the following:

37 () A copy of the proof from the Department of Public Safety and
 38 Corrections, office of motor vehicles, that it has received from the
 39 clerk of court a certified copy of the record of the plea, fingerprints
 40 of the defendant, and proof of the requirements set forth in C.Cr.P.
 41 Art. 556, which shall include the defendant's date of birth, last four
 42 digits of social security number, and driver's license number

43 5. Mover has attached to this Motion the following pertinent documents:

44 Criminal Background Check from the La. State Police/Parish Sheriff
 45 dated within the past 30 days (required).

46 Bill(s) of Information (if any).

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

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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.

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

3 **OR**

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

6 **No Opposition.** Respondent respectfully consents to waiver of the
7 contradictory hearing.

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

10 **OR**

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

13 **No Opposition.** Respondent respectfully consents to waiver of the
14 contradictory hearing.

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

17 Respectfully submitted,
18
19 _____
 Signature of Attorney
20
21 _____
 Attorney's Bar Roll No.
22
23 _____
 Address
24
25 _____
 City, State, ZIP Code
26
27 _____
 Telephone Number

28 **PLEASE SERVE:**

- 29 1. District Attorney:_____
- 30 2. Louisiana Bureau of Criminal Identification and Information_____
- 31 3. The Arresting Law Enforcement Agency_____

1 §991. Order 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**

10 **IT IS HEREBY ORDERED,**

11 If there is an objection to the Motion for Expungement, the district attorney
12 and the arresting law enforcement agency shall file a motion to object within
13 thirty days of the service of this Order.

14 If the Louisiana Bureau of Criminal Identification and Information objects
15 to the Motion for Expungement, they shall file a motion within 120 days of
16 the service of this order (prior to August 1, 2015) and within 60 days of
17 service of this order (after August 1, 2015).

18 **NO CONTRADICTION HEARING SHALL BE REQUIRED** as
19 evidenced by the "Affidavit of No Opposition" executed by each agency
20 named herein and attached to the Motion for Expungement.

21 **THUS ORDERED AND SIGNED** this ____ day of _____,
22 20 ____ at _____, Louisiana, _____.

23 _____
24 **JUDGE**

25 **PLEASE SERVE:**

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

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

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

1 Mover has had another record of arrest and misdemeanor conviction
2 expunged during the previous ten-year period.

3 Mover has had another record of felony conviction expunged during
4 the previous fifteen-year period.

5 Mover was convicted of a misdemeanor which arose from
6 circumstances involving a sex offense as defined in R.S. 15:541.

7 Mover was convicted of misdemeanor offense of domestic abuse
8 battery which was not dismissed pursuant to Code of Criminal
9 Procedure Article 894(B).

10 Mover did not complete pretrial diversion.

11 The charges against the mover were not dismissed or refused.

12 Mover's felony conviction was not set aside and dismissed pursuant
13 to Code of Criminal Procedure Article 893(E).

14 Mover's felony conviction was not set aside and dismissed pursuant
15 to Code of Criminal Procedure Article 894(B).

16 Mover completed a DWI pretrial diversion program, but five years
17 have not elapsed since the mover's date of arrest.

18 Mover's conviction for felony carnal knowledge of a juvenile is not
19 defined as misdemeanor carnal knowledge of a juvenile had the
20 mover been convicted on or after August 15, 2001.

21 Denial for any other reason provided by law with attached reasons for
22 denial.

23 **THE MOTION IS HEREBY GRANTED** for Item(s) No.

24 _____ and all agencies are ordered to expunge the record of
25 arrest/conviction and any photographs, fingerprints, or any other such information
26 of any kind maintained in connection with the Arrest(s)/Conviction(s) in the above-
27 captioned matter, which record shall be confidential and no longer considered a
28 public record, nor be available to other persons except a prosecutor, member of a law
29 enforcement agency, or a judge who may request such information in writing
30 certifying that such request is for the purpose of prosecuting, investigating, or
31 enforcing the criminal law, for the purpose of any other statutorily defined law
32 enforcement or administrative duties, or for the purpose of the requirements of sex
33 offender registration and notification pursuant to the provisions of R.S. 15:541, et
34 seq. or upon an order of this Court to any other person for good cause shown, or as
35 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		

1 **ITEM NO.** La. Rev. Stat. Ann. § _____ : _____
 2 Name of the offense _____
 3 () Conviction set aside/dismissed _____/_____/_____
 4 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 5 () More than 5 years have passed
 6 since completion of sentence.

7 **ITEM NO.** La. Rev. Stat. Ann. § _____ : _____
 8 Name of the offense _____
 9 () Conviction set aside/dismissed _____/_____/_____
 10 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 11 () More than 5 years have passed
 12 since completion of sentence.

13 **ITEM NO.** La. Rev. Stat. Ann. § _____ : _____
 14 Name of the offense _____
 15 () Conviction set aside/dismissed _____/_____/_____
 16 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 17 () More than 5 years have passed
 18 since completion of sentence.

19 **ITEM NO.** La. Rev. Stat. Ann. § _____ : _____
 20 Name of the offense _____
 21 () Conviction set aside/dismissed _____/_____/_____
 22 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 23 () More than 5 years have passed
 24 since completion of sentence.

25 **ITEM NO.** La. Rev. Stat. Ann. § _____ : _____
 26 Name of the offense _____
 27 () Conviction set aside/dismissed _____/_____/_____
 28 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 29 () More than 5 years have passed
 30 since completion of sentence.

31 **ITEM NO.** La. Rev. Stat. Ann. § _____ : _____
 32 Name of the offense _____
 33 () Conviction set aside/dismissed _____/_____/_____
 34 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 35 () More than 5 years have passed
 36 since completion of sentence.

37 **ITEM NO.** La. Rev. Stat. Ann. § _____ : _____
 38 Name of the offense _____
 39 () Conviction set aside/dismissed _____/_____/_____
 40 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 41 () More than 5 years have passed
 42 since completion of sentence.

43 **ITEM NO.** La. Rev. Stat. Ann. § _____ : _____
 44 Name of the offense _____
 45 () Conviction set aside/dismissed _____/_____/_____
 46 pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
 47 () More than 5 years have passed
 48 since completion of sentence.

1 **SUPPLEMENTAL SHEET**

2 **Yes** **No** **FELONY CONVICTIONS**

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

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

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

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

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

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

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

45 **ITEM NO.** La. Rev. Stat. Ann. § _____ : _____
 46 Name of the offense _____
 47 () Conviction set aside/dismissed _____/_____/_____
 48 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
 49 () More than 10 years have passed
 50 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.

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

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)]

Lopinto

HB No. 55

Abstract: Provides for a comprehensive revision of the expungement laws.

Present law provides for the expungement of records of arrest and misdemeanor convictions in certain circumstances.

Present law provides for the confidentiality of expunged records and authorizes access to those records by law enforcement, criminal justice agencies, and statutorily defined entities.

Proposed law retains present law.

Proposed law provides for a comprehensive revision to present law provisions, including the following major changes:

- (1) Moves expungement provisions of law from provisions regarding public records to the Code of Criminal Procedure.
- (2) Provides for statutorily defined forms to be used in motions for expungement and judgments of expungement.
- (3) Prohibits the unauthorized dissemination of expunged records by third parties and provides civil penalties for the unauthorized dissemination of expunged record information.
- (4) Provides for a five-year cleansing period without a conviction of a felony to obtain an expungement for a misdemeanor conviction.
- (5) Provides for a ten-year cleansing period without conviction to obtain an expungement for a felony conviction.
- (6) Deletes provisions of present law authorizing the destruction of criminal records.
- (7) Provides for a limitation on the number of expungements a person may obtain.
- (8) Provides eligibility criteria to obtain an expungement.
- (9) Prohibits the expungement of crimes of violence, sex offenses, and most controlled dangerous substances violations.
- (10) Allows the expungement of a conviction for possession of a controlled dangerous substance or the possession with intent to distribute a controlled dangerous substance.
- (11) Authorizes the district attorney or the La. Bureau of Criminal Identification and Information to request a contradictory hearing on a motion to expunge and provides for time periods for raising objections.
- (12) Provides for an expungement by redaction of certain identifying information in the records of a person who is arrested or convicted with other offenders who are not entitled to an expungement. Provides that expungement by redaction is the removal

of the name or any other identifying information of the person entitled to the expungement but otherwise retains the records of the incident as they relate to the other defendants.

- (13) Provides for an interim expungement of a felony arrest when that original arrest results in a conviction for a misdemeanor. Provides that these expungements are not subject to the cleansing period and are unlimited. Prohibits the expungement of misdemeanor convictions arising from the felony arrest.
- (14) Authorizes the use of expunged records by law enforcement, criminal justice agencies, prosecutors and judges for the purposes of defending a law enforcement, criminal justice agency, or prosecutor in a civil suit for damages resulting from wrongful arrest or other civil litigation and the expunged record is necessary to provide a proper defense.

Present law provides for the following fees for expungement:

- (1) The La. Bureau of Criminal Identification and Information may charge \$250.
- (2) The sheriff may charge \$50.
- (3) The district attorney may charge \$50.

Proposed law retains present law and makes the fees nonrefundable.

Proposed law authorizes the clerk of court to charge an administrative fee of up to \$200.

Present law provides that an applicant for expungement does not have to pay any fees for an expungement if a certification obtained from the district attorney is presented to the clerk of court which verifies that the applicant has no felony convictions and no pending felony charges under a bill of information or indictment and at least one of the following applies:

- (1) The applicant was acquitted, after trial, of all charges derived from the arrest, including any lesser and included offense.
- (2) The district attorney consents, and the case against the applicant was dismissed or the district attorney declined to prosecute the case prior to the time limitations provided for in present law, and the applicant did not participate in a pretrial diversion program.
- (3) The applicant was arrested and was never prosecuted within the time limitations provided for in present law and did not participate in a pretrial diversion program.

Proposed law retains present law and adds an additional circumstance for the exemption of expungement fees when the applicant has been determined to be factually innocent and entitled to compensation for a wrongful conviction pursuant to present law.

(Adds C.Cr.P. Arts. 971-995; Repeals R.S. 44:9)

Summary of Amendments Adopted by House

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

1. Made numerous technical changes to the proposed law forms to provide that the provisions of law were consistent with the language of the forms.

2. Required the person seeking the expungement to send the notice of the order of the expungement to any private third party disseminating criminal history information.
3. Provided that the five-year cleansing period for misdemeanor convictions applied to five years without a felony conviction. Reinstated present law regarding expungement of misdemeanor convictions.
4. Provided for interim expungements of felony arrests which result in convictions of misdemeanor offenses.
5. Prohibited the expungement of certain offenses arising out of felony arrests.
6. Granted the La. Bureau of Criminal Identification and Information 120 days to object to a motion to expunge a record for one year. On or after Aug. 1, 2015, this period is reduced to 60 days.
7. Added an additional circumstance for the exemption of expungement fees when the applicant has been determined to be factually innocent and entitled to compensation for a wrongful conviction pursuant to present law.

House Floor Amendments to the engrossed bill.

1. Extensive technical amendments to the expungement forms.
2. Defined "interim expungement".
3. Created exceptions for release of information by a "news-gathering organization" and defined that term.
4. Authorized the use of expunged records as a defense in a civil suit for damages resulting from wrongful arrest or other civil litigation.
5. Removed criminal penalties for dissemination of criminal history information by third-party entities.