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**HOUSE COMMITTEE AMENDMENTS**

Amendments proposed by House Committee on Administration of Criminal Justice to Original House Bill No. 55 by Representative Lopinto

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1 AMENDMENT NO. 1

2 On page 1, line 3, change "993" to "995"

3 AMENDMENT NO. 2

4 On page 1, line 19, after "record;" and before "and" insert "to provide for the interim  
5 expungement of certain arrests from criminal history records;"

6 AMENDMENT NO. 3

7 On page 2, line 3, change "993" to "995"

8 AMENDMENT NO. 4

9 On page 5, line 11, after "conviction." delete the remainder of the line and delete lines 12  
10 and 13 in their entirety

11 AMENDMENT NO. 5

12 On page 5, between lines 20 and 21, insert the following:

13 "C. The person obtaining the expungement shall send notice of the order of  
14 expungement by registered or certified mail with return receipt requested and the  
15 private third party shall not require a certified or courtesy copy of the order and  
16 judgment of expunging of the record."

17 AMENDMENT NO. 6

18 On page 5, at the beginning of line 21, change "C." to "D."

19 AMENDMENT NO. 7

20 On page 5, at the beginning of line 25, change "D." to "E."

21 AMENDMENT NO. 8

22 On page 6, line 14, after "prosecute" delete the remainder of the line and delete line 15 in its  
23 entirety and insert "any offense arising out of that arrest."

24 AMENDMENT NO. 9

25 On page 6, line 26, after "any" and before "offense" insert "felony"

26 AMENDMENT NO. 10

27 On page 7, line 1, after "no" and before "convictions" insert "felony"

28 AMENDMENT NO. 11

29 On page 7, line 2, after "pending" and before "charges" insert "felony"

1 AMENDMENT NO. 12

2 On page 7, delete lines 6 through 9 in their entirety and insert the following:

3 "C. No person shall be entitled to expungement of a record if either of the  
4 following occur:5 (1) The misdemeanor conviction arose from circumstances involving a sex  
6 offense as defined in R.S. 15:541, except that an interim expungement shall be  
7 available as authorized by the provisions of Code of Criminal Procedure Article  
8 985.1.9 (2) The misdemeanor conviction was for domestic abuse battery, which was  
10 not dismissed pursuant to Code of Criminal Procedure Article 894(B)."11 AMENDMENT NO. 1312 On page 7, at the end of line 11, delete the period "." and insert a comma "," and insert  
13 "unless the person was sentenced pursuant to Code of Criminal Procedure Article 894(B)."14 AMENDMENT NO. 1415 On page 8, line 6, after "by" and before "R.S. 14:2(B)" insert "or enumerated in"16 AMENDMENT NO. 15

17 On page 8, at the end of line 16, add the following:

18 "The burden is on the mover to establish that the elements of the offense of  
19 conviction are equivalent to the current definition of misdemeanor carnal knowledge  
20 of a juvenile as defined by R.S. 14:80.1. A copy of the order waiving the sex  
21 offender registration and notification requirements issued pursuant to the provisions  
22 of R.S. 15:542(F) shall be sufficient to meet this burden."23 AMENDMENT NO. 16

24 On page 9, delete lines 4 through 8 in their entirety

25 AMENDMENT NO. 1726 On page 9, line 14, after "an" and before "objection" insert "affidavit of response with  
27 reasons for the"28 AMENDMENT NO. 18

29 On page 9, delete lines 17 through 20 in their entirety and insert the following:

30 "(2) If the Louisiana Bureau of Criminal Identification and Information objects to  
31 the granting of the motion to expunge a record, it shall file an affidavit of response with  
32 reasons for the objection in the record with service to the defendant within one hundred and  
33 twenty days from the date of the service of the motion until August 1, 2015. On August 1,  
34 2015 and thereafter, if the Louisiana Bureau of Criminal Identification and Information  
35 objects to the granting of the motion to expunge a record, it shall file an affidavit of response  
36 with reasons for the objection in the record with service to the defendant within sixty days  
37 from the date of the service of the motion."38 AMENDMENT NO. 1939 On page 9, line 22, change "filing" to "service"

1 AMENDMENT NO. 20

2 On page 10, line 11, delete "A."

3 AMENDMENT NO. 21

4 On page 10, delete lines 18 through 20 in their entirety

5 AMENDMENT NO. 22

6 On page 12, between lines 12 and 13, insert the following:

7 "(4) The applicant has been determined to be factually innocent and entitled  
8 to compensation for a wrongful conviction pursuant to the provisions of R.S.  
9 15:572.8."

10 AMENDMENT NO. 23

11 On page 13, between lines 22 and 23, insert the following:

12 "Art. 985.1. Interim motion to expunge a felony arrest from criminal history in  
13 certain cases resulting in a misdemeanor conviction  
14 A. A person may file an interim motion to expunge a felony arrest from his  
15 criminal history when that original arrest results in a conviction for a misdemeanor.  
16 In such cases, only the original felony arrest may be expunged.  
17 B. The interim motion to expunge an arrest from criminal history is separate  
18 and distinct from an expungement of a final conviction pursuant to Code of Criminal  
19 Procedure Articles 976, 977, and 978.  
20 C. Except as provided in Paragraph D of this Article, an interim motion to  
21 expunge a felony arrest from criminal history shall follow the same procedures and  
22 fees established pursuant to the provisions of Code of Criminal Procedure Article  
23 979, et seq.  
24 D. An interim motion to expunge shall not be subject to the time limitations  
25 provided for in Articles 977(A)(2) or 978(A)(2), and there shall be no restriction on  
26 the number of interim expungements which may be granted."

27 AMENDMENT NO. 24

28 On page 14, delete lines 18 through 20 in their entirety and insert the following:

29 "in the above numbered case be set aside and that the prosecution dismissed in  
30 accordance with the Code of Criminal Procedure in that the period of the deferred  
31 sentence has run and petitioner has successfully completed the terms of his  
32 probation."

33 AMENDMENT NO. 25

34 On page 18, line 33, after "Procedure" and before "for" insert "and the arrestee did not  
35 participate in a pretrial diversion program"

36 AMENDMENT NO. 26

37 On page 18, between lines 33 and 34, insert the following:

38 **"OR**

39  The case involving the arrestee listed above was dismissed or the district  
40 attorney declined to prosecute the case prior to the time limitations

1 prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure, and  
2 the arrestee did not participate in a pretrial diversion program.

3 **OR**

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

7 AMENDMENT NO. 27

8 On page 18, delete line 35 in its entirety and insert "District Attorney or his designee - Print  
9 Name"

10 AMENDMENT NO. 28

11 On page 18, delete line 37 in its entirety and insert "District Attorney or his designee -  
12 Signature"

13 AMENDMENT NO. 29

14 On page 20, delete lines 14 and 15 in their entirety and insert the following:

15 "( ) Not prosecuted for any offense arising out of this charge."

16 AMENDMENT NO. 30

17 On page 20, line 16, change the question mark "?" to a period "."

18 AMENDMENT NO. 31

19 On page 20, between lines 16 and 17, insert the following:

20 "( ) DWI Pre-Trial Diversion Program and 5 years have elapsed since the date of  
21 arrest."

22 AMENDMENT NO. 32

23 On page 20, delete lines 23 and 24 in their entirety and insert the following:

24 "( ) Not prosecuted for any offense arising out of this charge."

25 AMENDMENT NO. 33

26 On page 20, line 25, change the question mark "?" to a period "."

27 AMENDMENT NO. 34

28 On page 20, delete lines 32 and 33 in their entirety and insert the following:

29 "( ) Not prosecuted for any offense arising out of this charge."

30 AMENDMENT NO. 35

31 On page 20, line 34, change the question mark "?" to a period "."

32 AMENDMENT NO. 36

33 On page 20, line 43, change the question mark "?" to a period "."

1 AMENDMENT NO. 37

2 On page 20, line 49, change the question mark "?" to a period "."

3 AMENDMENT NO. 38

4 On page 21, between lines 27 and 28, insert the following:

- 5  Certification Letter from the District Attorney verifying that
- 6 the applicant has no convictions or pending applicable
- 7 criminal charges in the requisite time periods.
- 8  Certification Letter from the District Attorney verifying that
- 9 the charges were refused.
- 10  Certification Letter from the District Attorney verifying that
- 11 the applicant did not participate in a pretrial diversion
- 12 program."

13 AMENDMENT NO. 39

14 On page 22, line 1, after "law," and before "or" insert "for the purpose of any other  
15 statutorily defined law enforcement or administrative duties, or for the purpose of the  
16 requirements of sex offender registration and notification pursuant to the provisions of R.S.  
17 15:541, et seq."

18 AMENDMENT NO. 40

19 On page 23, between lines 22 and 23, insert the following:

20 **"OR**

21 Pursuant to Louisiana Code of Criminal Procedure Article 980, the arresting  
22 law enforcement agency\_\_\_\_\_acknowledges the following:

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

27 AMENDMENT NO. 41

28 On page 24, line 16, after "Information" and before "show" insert "and the arresting law  
29 enforcement agency"

30 AMENDMENT NO. 42

31 On page 24, delete line 29 in its entirety

32 AMENDMENT NO. 43

33 On page 24, at the beginning of line 30, change "4." to "3." and after line 30, add the  
34 following:

35 "4. Arresting Agency: \_\_\_\_\_"

36 AMENDMENT NO. 44

37 On page 25, delete line 21 in its entirety and insert the following:

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

1           " A violation of the Uniform Controlled Dangerous Substances Law which is  
2           ineligible to be expunged."

3    AMENDMENT NO. 45

4    On page 25, line 26, after "defined" and before "as" insert "or enumerated"

5    AMENDMENT NO. 46

6    On page 26, between lines 2 and 3, insert the following:

- 7           " Mover was convicted of a misdemeanor which arose from circumstances  
8           involving a sex offense as defined in R.S. 15:541.
- 9            Mover was convicted of misdemeanor offense of domestic abuse battery  
10          which was not dismissed pursuant to Code of Criminal Procedure Article  
11          894(B).
- 12           Mover did not complete pretrial diversion.
- 13           The charges against the mover were not dismissed or refused.
- 14           Mover's felony conviction was not set aside and dismissed pursuant to Code  
15          of Criminal Procedure Article 893(E).
- 16           Mover's felony conviction was not set aside and dismissed pursuant to Code  
17          of Criminal Procedure Article 894(B).
- 18           Mover completed a DWI pretrial diversion program, but five years have not  
19          elapsed since the mover's date of arrest.
- 20           Mover's conviction for felony carnal knowledge of a juvenile is not defined  
21          as misdemeanor carnal knowledge of a juvenile had the mover been  
22          convicted on or after August 15, 2001.
- 23           Denial for any other reason provided by law with attached reasons for  
24          denial."

25   AMENDMENT NO. 47

26   On page 26, line 10, after "law," and before "or" insert "for the purpose of any other  
27   statutorily defined law enforcement or administrative duties, or for the purpose of the  
28   requirements of sex offender registration and notification pursuant to the provisions of R.S.  
29   15:541, et seq."

30   AMENDMENT NO. 48

31   On page 27, delete line 3 in its entirety

32   AMENDMENT NO. 49

33   On page 27, line 4, change "7." to "6."

34   AMENDMENT NO. 50

35   On page 27, line 5, change "8." to "7."

36   AMENDMENT NO. 51

37   On page 27, line 13, change the question mark "?" to a period "."

38   AMENDMENT NO. 52

39   On page 27, line 14, change the question mark "?" to a period "."

1 AMENDMENT NO. 53

2 On page 27, line 21, change the question mark "?" to a period "."

3 AMENDMENT NO. 54

4 On page 27, line 22, change the question mark "?" to a period "."

5 AMENDMENT NO. 55

6 On page 27, line 29, change the question mark "?" to a period "."

7 AMENDMENT NO. 56

8 On page 27, line 30, change the question mark "?" to a period "."

9 AMENDMENT NO. 57

10 On page 27, line 37, change the question mark "?" to a period "."

11 AMENDMENT NO. 58

12 On page 27, line 38, change the question mark "?" to a period "."

13 AMENDMENT NO. 59

14 On page 27, line 45, change the question mark "?" to a period "."

15 AMENDMENT NO. 60

16 On page 27, line 46, change the question mark "?" to a period "."

17 AMENDMENT NO. 61

18 On page 28, line 5, change the question mark "?" to a period "."

19 AMENDMENT NO. 62

20 On page 28, line 6, change the question mark "?" to a period "."

21 AMENDMENT NO. 63

22 On page 28, line 16, change the question mark "?" to a period "."

23 AMENDMENT NO. 64

24 On page 28, line 22, change the question mark "?" to a period "."

25 AMENDMENT NO. 65

26 On page 28, line 28, change the question mark "?" to a period "."

27 AMENDMENT NO. 66

28 On page 28, line 34, change the question mark "?" to a period "."

29 AMENDMENT NO. 67

30 On page 28, line 40, change the question mark "?" to a period "."

1 AMENDMENT NO. 68

2 On page 28, line 46, change the question mark "?" to a period "."

3 AMENDMENT NO. 69

4 On page 29, line 6, change the question mark "?" to a period "."

5 AMENDMENT NO. 70

6 On page 29, line 12, change the question mark "?" to a period "."

7 AMENDMENT NO. 71

8 On page 29, line 18, change the question mark "?" to a period "."

9 AMENDMENT NO. 72

10 On page 30, between lines 24 and 25, insert the following:

11 "Art. 994. Motion for interim expungement form to be used

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

14 \_\_\_\_\_

15 **No.:** \_\_\_\_\_

**Division:** " \_\_\_\_\_ "

16 **State of Louisiana**

17 **vs.**

18 \_\_\_\_\_

19 **MOTION FOR INTERIM EXPUNGEMENT**

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

22 **I. DEFENDANT INFORMATION**

23 NAME: \_\_\_\_\_  
24 (Last, First, MI)

25 DOB: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ (MM/DD/YYYY)

26 GENDER \_\_\_\_\_ Female \_\_\_\_\_ Male

27 SSN (last 4 digits): XXX-XX-\_\_\_\_\_

28 RACE: \_\_\_\_\_

29 DRIVER LIC.# \_\_\_\_\_

30 ARRESTING AGENCY: \_\_\_\_\_

31 SID# (if available): \_\_\_\_\_

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1 ITEM NUMBER: \_\_\_\_\_

2 ARREST NUMBER: \_\_\_\_\_

3 Mover is entitled to expunge the entry of the felony charge(s) of his arrest  
4 pursuant to Louisiana Code of Criminal Procedure Article 985.1 and states the  
5 following in support:

6 **II. ARREST INFORMATION**

7 1. Mover was arrested on \_\_\_\_/\_\_\_\_/\_\_\_\_ (MM/DD/YYYY)

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

11 3. Mover was:  
12 \_\_\_\_ YES \_\_\_\_ NO Arrested for a felony offense.  
13 \_\_\_\_ YES \_\_\_\_ NO Convicted of a misdemeanor arising out of  
14 that felony offense.

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

19 \_\_\_\_ Yes \_\_\_\_ No **FELONY ARREST THAT RESULTED IN A**  
20 **MISDEMEANOR CONVICTION**

21 **OFFENSE 1** La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_  
22 Name of the offense \_\_\_\_\_  
23 \_\_\_\_\_  
24 (MM/DD/YYYY)  
25 ( ) Felony charge dismissed.  
26 ( ) Convicted of misdemeanor offense arising out of  
27 felony arrest.

28 4. Mover has attached to his Motion a criminal background check from the  
29 Louisiana State Police/Parish Sheriff dated within the past thirty days  
30 (required).

31 The Mover prays that a Rule to Show Cause be issued herein setting a  
32 contradictory hearing with the arresting law enforcement agency, the District  
33 Attorney's Office, and Louisiana Bureau of Criminal Identification and Information,  
34 why an order should not be granted expunging the entry of the felony charges set  
35 forth above.

36 If an "Affidavit of No Opposition" by each agency named herein is attached  
37 hereto and made a part hereof, Defendant requests that no contradictory hearing be  
38 required and the Motion be granted ex parte.

39 Respectfully submitted,

40 \_\_\_\_\_  
41 Signature of Attorney for Mover/Defendant

42 \_\_\_\_\_  
43 Attorney for Mover/Defendant Name

44 \_\_\_\_\_

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**If not represented by counsel:**

\_\_\_\_\_  
 Signature of Mover/Defendant

\_\_\_\_\_  
 Mover/Defendant Name

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 Address

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 City, State, ZIP Code

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 Telephone Number "

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.
  - Mover was not convicted of a misdemeanor offense.

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