

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)

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AN ACT

To enact Code of Criminal Procedure Art. 978(A)(3), relative to expungement; to provide for expungement of arrest and conviction records for an offense subject to a first offender pardon; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 978(A)(3) 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 ~~either~~ **any** of the following apply:

* * *

(3) The person is entitled to a first offender pardon for the offense pursuant to Louisiana Constitution Article IV, Section 5(E)(1), provided that the offense is not defined as a crime of violence pursuant to R.S. 14:2(B) or a sex offense pursuant to R.S. 15:541.

* * *

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 Engrossed 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 under either of the following circumstances:

- (1) The conviction was set aside and the prosecution was dismissed pursuant to present law relative to suspension and deferral of sentence and probation in felony cases under certain circumstances.
- (2) 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.

Proposed law retains present law.

Present constitution provides that a first offender convicted of a nonviolent crime, or convicted of aggravated battery, second degree battery, aggravated assault, mingling harmful substances, aggravated criminal damage to property, purse snatching, extortion, or illegal use of weapons or dangerous instrumentalities never previously convicted of a felony is pardoned automatically upon completion of his sentence, without a recommendation of the Board of Pardons and without action by the governor.

Proposed law provides that in addition to other circumstances under which a person is entitled to an expungement, a person is also entitled to an expungement if he is eligible for an expungement if he is entitled to a first offender pardon pursuant to present constitution, provided the offense is not defined as a crime of violence or a sex offense under present law.

Effective August 1, 2019.

(Adds C.Cr.P. Art. 978(A)(3))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Delete provisions of proposed law shortening the "cleansing period" after which a person is eligible for an expungement from 10 years to five years.
2. Delete provisions of proposed law relative to eligibility for an expungement based on application for employment or physical or mental impairment making the person unable to work.
3. Add provision making a person entitled to a first offender pardon under present constitution eligible for an expungement under certain circumstances.