

2020 Regular Session

HOUSE BILL NO. 194

BY REPRESENTATIVE MARINO

CRIMINAL/RECORDS: Provides relative to certain expungement forms

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 989, 992, and 993, relative to
3 expungement; to provide with respect for expungement forms; to provide for the
4 amendment of certain forms for expungement; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Articles 989, 992, and 993 are hereby
7 amended and reenacted to read as follows:

8 Art. 989. Motion for expungement forms to be used

9 STATE OF LOUISIANA
10 JUDICIAL DISTRICT FOR THE PARISH OF

11 _____
12 No.: _____ Division: " _____ "

13 State of Louisiana

14 vs.

15 _____

16 MOTION FOR EXPUNGEMENT

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

19 I. DEFENDANT INFORMATION

20 NAME: _____

21 (Last, First, MI)

1 DOB: _____ / _____ / _____ (MM/DD/YYYY)
 2 GENDER ____ Female ____ Male
 3 SSN (last 4 digits): XXX-XX-_____
 4 RACE: _____
 5 DRIVER LIC.# _____
 6 ARRESTING AGENCY: _____
 7 SID# (if available): _____
 8 ARREST NUMBER (ATN): _____
 9 AGENCY ITEM NO. _____

10 Mover is entitled to expunge the record of his arrest/conviction pursuant to
 11 Louisiana Code of Criminal Procedure Article 971 et seq. and states the following
 12 in support:

13 **II. ARREST INFORMATION**

14 1. Mover was arrested on _____ / _____ / _____ (MM/DD/YYYY)
 15 2. ____ YES ____ NO A supplemental sheet with arrests and/or
 16 convictions is attached after page 2 of this
 17 Motion.
 18 3. Mover was:
 19 ____ YES ____ NO Arrested, but it did not result in conviction
 20 ____ YES ____ NO Convicted of and seeks to expunge a
 21 misdemeanor
 22 ____ YES ____ NO Convicted of and seeks to expunge a felony
 23 ____ YES ____ NO Convicted but determined to be factually
 24 innocent and entitled to compensation for a
 25 wrongful conviction pursuant to the
 26 provisions of R.S. 15:572.8.

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

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

4 ___ Yes ___ No **ARRESTS THAT DID NOT RESULT IN CONVICTION**

5 **NO. 1** La. Rev. Stat. Ann. § _____ : _____

6 Name of the offense _____

7 () Time expired for prosecution _____

8 (MM/DD/YYYY)

9 () Not prosecuted for any offense

10 arising out of this charge.

11 () Pre-trial Diversion Program.

12 () DWI Pre-Trial Diversion Program

13 and 5 years have elapsed since the

14 date of arrest.

15 () Charge dismissed

16 () Found not guilty/judgment of acquittal

17 **NO. 2** La. Rev. Stat. Ann. § _____ : _____

18 Name of the offense _____

19 () Time expired for prosecution _____

20 (MM/DD/YYYY)

21 () Not prosecuted for any

22 offense arising out of this charge.

23 () Pre-trial Diversion Program.

24 () Charge dismissed

25 () Found not guilty/judgment of acquittal

26 **NO. 3** La. Rev. Stat. Ann. § _____ : _____

27 Name of the offense _____

28 () Time expired for prosecution _____

29 (MM/DD/YYYY)

- 1 () Not prosecuted for any offense
- 2 arising out of this charge.
- 3 () Pre-trial Diversion Program.
- 4 () Charge dismissed
- 5 () Found not guilty/judgment of acquittal

6 ___ Yes ___ No **MISDEMEANOR CONVICTIONS**

7 **NO. 1** 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 **NO. 2** 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 ___ Yes ___ No **FELONY CONVICTIONS**

20 **NO. 1** La. Rev. Stat. Ann. § _____ : _____

21 () Conviction set aside/dismissed _____/_____/_____

22 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)

23 () More than 10 years have passed

24 since completion of sentence

25 () Received a first offender pardon for an eligible offense

26 **NO. 2** La. Rev. Stat. Ann. § _____ : _____

27 () Conviction set aside/dismissed _____/_____/_____

28 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)

29 () More than 10 years have passed

1 since completion of sentence

2 () Received a first offender pardon for an eligible offense

3 Yes No **OPERATING A MOTOR VEHICLE WHILE**
4 **INTOXICATED CONVICTIONS**

5 Mover has attached the following:

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

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

13 Criminal Background Check from the La. State Police/Parish Sheriff
14 dated within the past 60 days (required).

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

16 Minute entry showing final disposition of case (if any).

17 Certification Letter from the District Attorney for fee waiver (if
18 eligible).

19 Certification Letter from the District Attorney verifying that the
20 applicant has no convictions or pending applicable criminal charges
21 in the requisite time periods.

22 Certification Letter from the District Attorney verifying that the
23 charges were refused.

24 Certification Letter from the District Attorney verifying that the
25 applicant did not participate in a pretrial diversion program.

26 A copy of a first offender pardon.

27 A copy of the order waiving the sex offender registration and
28 notification requirements.

- 1 Documentation verifying that the mover has been employed for ten
2 consecutive years.
- 3 A copy of the court order determination of factual innocence and
4 order of compensation for a wrongful conviction pursuant to the
5 provisions of R.S. 15:572.8 if applicable.

6 The Mover prays that if there is no objection timely filed by the arresting law
7 enforcement agency, the district attorney's office, or the Louisiana Bureau of
8 Criminal Identification and Information, that an order be issued herein ordering the
9 expungement of the record of arrest and/or conviction set forth above, including all
10 photographs, fingerprints, disposition, or any other such information, which record
11 shall be confidential and no longer considered a public record, nor be made available
12 to other persons, except a prosecutor, member of a law enforcement agency, or a
13 judge who may request such information in writing, certifying that such request is
14 for the purpose of prosecuting, investigating, or enforcing the criminal law, for the
15 purpose of any other statutorily defined law enforcement or administrative duties,
16 or for the purpose of the requirements of sex offender registration and notification
17 pursuant to the provisions of R.S. 15:541 et seq. or as an order of this Court to any
18 other person for good cause shown, or as otherwise authorized by law.

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

22 Respectfully submitted,

23 _____

24 Signature of Attorney for Mover/Defendant

25 _____

26 Attorney for Mover/Defendant Name

27 _____

28 Attorney's Bar Roll No.

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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. 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

1 The hearing conducted and evidence adduced herein, OR

2 Affidavits of No Opposition filed,

3 **IT IS ORDERED, ADJUDGED AND DECREED**

4 **THE MOTION IS DENIED** for No(s). , , , _____ for the following
5 reasons (check all that apply):

6 More than five years have not elapsed since Mover completed the
7 misdemeanor conviction sentence.

8 More than ten years have not elapsed since Mover completed the
9 felony conviction sentence.

10 Mover was convicted of one of the following ineligible felony
11 offenses:

12 A violation of the Uniform Controlled Dangerous Substances Law
13 which is ineligible to be expunged.

14 An offense currently listed as a sex offense that requires registration
15 pursuant to R.S. 15:540 et seq., at the time the Motion was filed,
16 regardless of whether the duty to register was ever imposed.

17 An offense defined or enumerated as a "crime of violence" pursuant
18 to R.S. 14:2(B) at the time the Motion was filed.

19 The arrest and conviction being sought to have expunged is for
20 operating a motor vehicle while intoxicated and a copy of the proof
21 from the Department of Public Safety and Corrections, office of
22 motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).

23 Mover has had another record of misdemeanor conviction expunged
24 during the previous five-year period.

25 The record of arrest and conviction which Mover seeks to have
26 expunged is for operating a motor vehicle while intoxicated and
27 Mover has had another record of arrest and misdemeanor conviction
28 expunged during the previous ten-year period.

- 1 Mover has had another record of felony conviction expunged during
- 2 the previous fifteen-year period.
- 3 Mover was convicted of a misdemeanor which arose from
- 4 circumstances involving a sex offense as defined in R.S. 15:541.
- 5 Mover was convicted of misdemeanor offense of domestic abuse
- 6 battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
- 7 Mover did not complete pretrial diversion.
- 8 The charges against the mover were not dismissed or refused.
- 9 Mover's felony conviction was not set aside and dismissed pursuant
- 10 to C.Cr.P. Art. 893(E).
- 11 Mover's felony conviction was not set aside and dismissed pursuant
- 12 to C.Cr.P. Art. 894(B).
- 13 Mover completed a DWI pretrial diversion program, but five years
- 14 have not elapsed since the mover's date of arrest.
- 15 Mover's conviction for felony carnal knowledge of a juvenile is not
- 16 defined as misdemeanor carnal knowledge of a juvenile had the
- 17 mover been convicted on or after August 15, 2001.
- 18 Mover has not been employed for ten consecutive years as required
- 19 by C.Cr.P. Art. 978(E)(1)(d).
- 20 Mover was not convicted of a crime that would be eligible for
- 21 expungement as required by C.Cr.P. Art. 978(E)(1).
- 22 Mover has criminal charges pending against him.
- 23 Mover was convicted of a criminal offense during the ten-year
- 24 period.
- 25 Mover received a first offender pardon but for an ineligible offense.
- 26 Mover did not receive a first offender pardon.
- 27 Denial for any other reason provided by law with attached reasons for
- 28 denial.

1 **THE MOTION IS HEREBY GRANTED** for No(s). _____

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

13 **THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT**

14 **BY REDACTION** If the record includes more than one individual and the mover
15 is entitled to expungement by redaction pursuant to Code of Criminal Procedure
16 Article 985, for No(s). _____ and all agencies are ordered to expunge the
17 record of arrest/conviction and any photographs, fingerprints, or any other such
18 information of any kind maintained in relation to the Arrest(s)/Conviction(s) in the
19 above-captioned matter as they relate to the mover only. The record shall be
20 confidential and no longer considered a public record, nor be available to other
21 persons except a prosecutor, member of a law enforcement agency, or a judge who
22 may request such information in writing certifying that such request is for the
23 purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose
24 of any other statutorily defined law enforcement or administrative duties, or for the
25 purpose of the requirements of sex offender registration and notification pursuant to
26 the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other
27 person for good cause shown, or as otherwise authorized by law.

28 NAME: _____

29 (Last, First, MI)

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

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

2 GENDER: ____ Female ____ Male

3 SSN (last 4 digits): XXX-XX-____

4 RACE: _____

5 DRIVER LIC.# _____

6 ARRESTING AGENCY: _____

7 SID# (if available): _____

8 ARREST NUMBER (ATN): _____

9 AGENCY ITEM NUMBER: _____

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

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

12 at _____, Louisiana.

13 _____

14 JUDGE

15 **PLEASE SERVE:**

16 1. District Attorney: _____

17 2. Arresting Agency: _____

18 3. Parish Sheriff: _____

19 4. Louisiana Bureau of Criminal Identification and Information _____

20 5. Attorney for Defendant (or defendant) _____

21 6. Clerk of Court _____

22 Art. 993. Supplemental forms to be used

23 **SUPPLEMENTAL SHEET**

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

25 **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.

1 () Pre-trial Diversion Program.

2 () Charge dismissed

3 () Found not guilty/judgment of acquittal

4 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____

5 Name of the offense _____

6 () Time expired for prosecution ____/____/____

7 (MM/DD/YYYY)

8 () Charge refused by DA - not prosecuted.

9 () Pre-trial Diversion Program.

10 () Charge dismissed

11 () Found not guilty/judgment of acquittal

12 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____

13 Name of the offense _____

14 () Time expired for prosecution ____/____/____

15 (MM/DD/YYYY)

16 () Charge refused by DA - not prosecuted.

17 () Pre-trial Diversion Program.

18 () Charge dismissed

19 () Found not guilty/judgment of acquittal

20 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____

21 Name of the offense _____

22 () Time expired for prosecution ____/____/____

23 (MM/DD/YYYY)

24 () Charge refused by DA - not prosecuted.

25 () Pre-trial Diversion Program.

26 () Charge dismissed

27 () Found not guilty/judgment of acquittal

28 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____

29 Name of the offense _____

1 () Time expired for prosecution ____/____/____
2 (MM/DD/YYYY)

3 () Charge refused by DA - not prosecuted.

4 () Pre-trial Diversion Program.

5 () Charge dismissed

6 () Found not guilty/judgment of acquittal

7 **NO.** ____ La. Rev. Stat. Ann. § ____ : ____

8 Name of the offense _____

9 () Time expired for prosecution ____/____/____
10 (MM/DD/YYYY)

11 () Charge refused by DA - not prosecuted.

12 () Pre-trial Diversion Program.

13 () Charge dismissed

14 () Found not guilty/judgment of acquittal

15 **SUPPLEMENTAL SHEET**

16 ____ Yes ____ No **MISDEMEANOR CONVICTIONS**

17 **NO.** ____ La. Rev. Stat. Ann. § ____ : ____

18 Name of the offense _____

19 () Conviction set aside/dismissed ____/____/____
20 (MM/DD/YYYY)

21 pursuant to C.Cr.P. Art. 894(B)

22 () More than 5 years have passed

23 since completion of sentence.

24 **NO.** ____ La. Rev. Stat. Ann. § ____ : ____

25 Name of the offense _____

26 () Conviction set aside/dismissed ____/____/____
27 (MM/DD/YYYY)

28 pursuant to C.Cr.P. Art. 894(B)

29 () More than 5 years have passed

1 since completion of sentence.

2 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____

3 Name of the offense _____

4 () Conviction set aside/dismissed ____/____/____

5 (MM/DD/YYYY)

6 pursuant to C.Cr.P. Art. 894(B)

7 () More than 5 years have passed

8 since completion of sentence.

9 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____

10 Name of the offense _____

11 () Conviction set aside/dismissed ____/____/____

12 (MM/DD/YYYY)

13 pursuant to C.Cr.P. Art. 894(B)

14 () More than 5 years have passed

15 since completion of sentence.

16 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____

17 Name of the offense _____

18 () Conviction set aside/dismissed ____/____/____

19 (MM/DD/YYYY)

20 pursuant to C.Cr.P. Art. 894(B)

21 () More than 5 years have passed

22 since completion of sentence.

23 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____

24 Name of the offense _____

25 () Conviction set aside/dismissed ____/____/____

26 (MM/DD/YYYY)

27 pursuant to C.Cr.P. Art. 894(B)

28 () More than 5 years have passed

29 since completion of sentence.

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

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

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

22 **SUPPLEMENTAL SHEET**

23 ___ Yes ___ No **FELONY CONVICTIONS**

24 **NO.** ___ La. Rev. Stat. Ann. § _____ : _____
 25 Name of the offense _____
 26 () Conviction set aside/dismissed ___ / ___ / ___
 27 (MM/DD/YYYY)
 28 pursuant to C.Cr.P. Art. 893(E)
 29 () More than 10 years have passed

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

1 since completion of sentence

2 () Received a first offender pardon for an eligible offense

3 **NO.** ____ La. Rev. Stat. Ann. § _____ :

4 Name of the offense _____

5 () Conviction set aside/dismissed ____ / ____ / ____

6 (MM/DD/YYYY)

7 pursuant to C.Cr.P. Art. 893(E)

8 () More than 10 years have passed

9 since completion of sentence

10 () Received a first offender pardon for an eligible offense

11 **NO.** ____ La. Rev. Stat. Ann. § _____ :

12 Name of the offense _____

13 () Conviction set aside/dismissed ____ / ____ / ____

14 (MM/DD/YYYY)

15 pursuant to C.Cr.P. Art. 893(E)

16 () More than 10 years have passed

17 since completion of sentence

18 () Received a first offender pardon for an eligible offense

19 **NO.** ____ La. Rev. Stat. Ann. § _____ :

20 Name of the offense _____

21 () Conviction set aside/dismissed ____ / ____ / ____

22 (MM/DD/YYYY)

23 pursuant to C.Cr.P. Art. 893(E)

24 () More than 10 years have passed

25 since completion of sentence

26 () Received a first offender pardon for an eligible offense

27 **NO.** ____ La. Rev. Stat. Ann. § _____ :

28 Name of the offense _____

1 () Conviction set aside/dismissed ____/____/____

2 (MM/DD/YYYY)

3 pursuant to C.Cr.P. Art. 893(E)

4 () More than 10 years have passed

5 since completion of sentence

6 () Received a first offender pardon for an eligible offense

7 **NO.** ____ La. Rev. Stat. Ann. § ____ : ____

8 Name of the offense _____

9 () Conviction set aside/dismissed ____/____/____

10 (MM/DD/YYYY)

11 pursuant to C.Cr.P. Art. 893(E)

12 () More than 10 years have passed

13 since completion of sentence

14 () Received a first offender pardon for an eligible offense

15 **NO.** ____ La. Rev. Stat. Ann. § ____ : ____

16 Name of the offense _____

17 () Conviction set aside/dismissed ____/____/____

18 (MM/DD/YYYY)

19 pursuant to C.Cr.P. Art. 893(E)

20 () More than 10 years have passed

21 since completion of sentence

22 () Received a first offender pardon for an eligible offense

23 **NO.** ____ La. Rev. Stat. Ann. § ____ : ____

24 Name of the offense _____

25 () Conviction set aside/dismissed ____/____/____

26 (MM/DD/YYYY)

27 pursuant to C.Cr.P. Art. 893(E)

28 () More than 10 years have passed

29 since completion of sentence

1 () Received a first offender pardon for an eligible offense

2 **NO.** ____ La. Rev. Stat. Ann. § _____ : _____

3 Name of the offense _____

4 () Conviction set aside/dismissed _____/_____/_____

5 (MM/DD/YYYY)

6 pursuant to C.Cr.P. Art. 893(E)

7 () More than 10 years have passed

8 since completion of sentence

9 () Received a first offender pardon for an eligible offense

10 * * *

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)]

HB 194 Engrossed 2020 Regular Session Marino

Abstract: Amends certain expungement forms.

Present law provides for the expungement of criminal records and provides for the forms which shall be used to seek an expungement.

Proposed law amends present law forms for a motion for expungement, order of expungement, and supplemental forms to include options for which a person received a first offender pardon for an eligible offense pursuant to present law.

(Amends C.Cr.P. Arts. 989, 992, and 993)