

2020 Regular Session

HOUSE BILL NO. 241

BY REPRESENTATIVE JAMES

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 975 and 992 and to repeal Code  
3 of Criminal Procedure Articles 977(D) and 978(D), relative to expungements; to  
4 provide relative to the number of expungements a person may obtain in a certain  
5 period of time; to provide relative to the authority of certain persons to file for an  
6 expungement while incarcerated; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Articles 975 and 992 are hereby amended  
9 and reenacted to read as follows:

10 Art. 975. Individuals incarcerated; ineligible to file motion to expunge records  
11 ~~Notwithstanding any other provision of law to the contrary, a A person in the~~  
12 ~~physical custody of the Department of Public Safety and Corrections, or incarcerated~~  
13 ~~in any correctional facility serving a sentence at hard labor shall not be permitted to~~  
14 file a motion to expunge a record of an arrest which did not result in a conviction or  
15 to expunge a record of an arrest and conviction of a misdemeanor or felony offense.

16 \* \* \*

17 Art. 992. Order of expungement form to be used

18 STATE OF LOUISIANA

19 JUDICIAL DISTRICT FOR THE PARISH OF

20 \_\_\_\_\_  
21 No.: \_\_\_\_\_

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

22 State of Louisiana

23 vs.

24 \_\_\_\_\_  
25 ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD

1           Considering the Motion for Expungement

2               The hearing conducted and evidence adduced herein, OR

3               Affidavits of No Opposition filed,

4           IT IS ORDERED, ADJUDGED AND DECREED

5               THE MOTION IS DENIED for No(s). \_\_\_\_, , , , \_\_\_\_\_ for the following  
6           reasons (check all that apply):

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

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

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

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

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

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

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

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

26              ~~The record of arrest and conviction which Mover seeks to have  
27          expunged is for operating a motor vehicle while intoxicated and  
28          Mover has had another record of arrest and misdemeanor conviction  
29          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                    Denial for any other reason provided by law with attached reasons for
- 26     denial.
- 27                    **THE MOTION IS HEREBY GRANTED** for No(s). \_\_\_\_\_
- 28     and all agencies are ordered to expunge the record of arrest/conviction and
- 29     any photographs, fingerprints, or any other such information of any kind
- 30     maintained in connection with the Arrest(s)/Conviction(s) in the above-

1 captioned matter, which record shall be confidential and no longer  
 2 considered a public record, nor be available to other persons except a  
 3 prosecutor, member of a law enforcement agency, or a judge who may  
 4 request such information in writing certifying that such request is for the  
 5 purpose of prosecuting, investigating, or enforcing the criminal law, for the  
 6 purpose of any other statutorily defined law enforcement or administrative  
 7 duties, or for the purpose of the requirements of sex offender registration and  
 8 notification pursuant to the provisions of R.S. 15:541 et seq. or upon an order  
 9 of this Court to any other person for good cause shown, or as otherwise  
 10 authorized by law.

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

26 NAME: \_\_\_\_\_

27 (Last, First, MI)

28 DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_ (MM/DD/YY)

29 GENDER: \_\_\_\_ Female \_\_\_\_ Male

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

1 RACE: \_\_\_\_\_

2 DRIVER LIC.# \_\_\_\_\_

3 ARRESTING AGENCY: \_\_\_\_\_

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

5 ARREST NUMBER (ATN): \_\_\_\_\_

6 AGENCY ITEM NUMBER: \_\_\_\_\_

7 ARREST DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_ (MM/DD/YY)

8 **THUS ORDERED AND SIGNED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

9 at \_\_\_\_\_, Louisiana.

10 \_\_\_\_\_

11 JUDGE

12 **PLEASE SERVE:**

13 1. District Attorney: \_\_\_\_\_

14 2. Arresting Agency: \_\_\_\_\_

15 3. Parish Sheriff: \_\_\_\_\_

16 4. Louisiana Bureau of Criminal Identification and Information \_\_\_\_\_

17 5. Attorney for Defendant (or defendant) \_\_\_\_\_

18 6. Clerk of Court \_\_\_\_\_

19 Section 2. Code of Criminal Procedure Articles 977(D) and 978(D) are hereby  
20 repealed in their entirety.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_