

ACT No. 78

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 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: _____