

RÉSUMÉ DIGEST

ACT 78 (HB 241)

2020 Regular Session

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Present law (C.Cr.P. Art. 977) provides that a person may file a motion to expunge his record of arrest and conviction of certain **misdemeanor offenses** if the conviction was set aside and the prosecution was dismissed pursuant to present law (C.Cr.P. Art. 894) or more than five years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole, and the person has not been convicted of any felony offense during the five-year period and has no felony charge pending against him.

Present law (C.Cr.P. Art. 978) provides that a person may file a motion to expunge his record of arrest and conviction of certain **felony offenses** if the conviction was set aside and the prosecution was dismissed pursuant to present law (C.Cr.P. Art. 893); 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 the 10-year period and has no criminal charge pending against him; or the person is entitled to a first offender pardon for the offense, provided that the offense is not defined as a crime of violence or a sex offense.

Prior law (C.Cr.P. Art. 977(D)) provided that the expungement of a record of arrest and conviction of a **misdemeanor offense** shall occur only once with respect to any person during a five-year period, except under certain circumstances. Prior law further provided that the expungement of a record of arrest and conviction of a **misdemeanor DWI offense** shall occur only once with respect to any person during a ten-year period.

Prior law (C.Cr.P. Art. 978(D)) provided that the expungement of a record of arrest and conviction of a **felony offense** shall occur only once with respect to any person during a 15-year period, except under certain circumstances.

New law does all of the following:

- (1) Repeals the prior law (C.Cr.P. Art. 977(D)) limitation on obtaining an expungement once every five years for an arrest and conviction of a **misdemeanor offense** and once every 10 years for a **misdemeanor DWI offense**.
- (2) Repeals the prior law (C.Cr.P. Art. 978(D)) limitation on obtaining an expungement once every 15 years for an arrest and conviction of a **felony offense**.

Prior law (C.Cr.P. Art. 975) provided that any person in the custody of the Dept. of Public Safety and Corrections or incarcerated in any correctional facility shall not be permitted to file a motion to expunge a record of arrest which did not result in a conviction or to expunge a record of an arrest and conviction of a misdemeanor or a felony offense.

New law amends prior law to limit the prohibition on filing a motion for an expungement of a record of arrest to only those persons who are in the physical custody of the Dept. of Public Safety and Corrections and serving a sentence at hard labor.

Existing law provides for forms that are required to be used for motions seeking an expungement and for orders granting or denying expungement.

New law amends the forms to conform with changes made in new law.

Effective Aug. 1, 2020.

(Amends C.Cr.P. Arts. 975 and 992; Repeals C.Cr.P. Arts. 977(D) and 978(D))