SLS 22RS-476 ORIGINAL

2022 Regular Session

SENATE BILL NO. 334

BY SENATOR JACKSON

CRIMINAL RECORDS. Provides for attempted malfeasance in office convictions to be set aside and expunged. (8/1/22)

1	AN ACT
2	To amend and reenact Code of Criminal Procedure Art. 978, 987, and 989, and to enact R.S.
3	14:134(D), relative to expungement of records; to provide relative to the crime of
4	attempted malfeasance in office; to provide that convictions for attempted
5	malfeasance in office may be set aside; to provide relative to expungement of records
6	of arrest and conviction for attempted malfeasance in office; and to provide for
7	related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. Code of Criminal Procedure Art. 978, 987, and 989 are hereby amended
10	and reenacted to read as follows:
11	Art. 978. Motion to expunge record of arrest and conviction of a felony offense
12	A. Except as provided in Paragraph B of this Article, a person may file a
13	motion to expunge his record of arrest and conviction of a felony offense if any of
14	the following apply:
15	* * *
16	(4) The person was convicted of attempted malfeasance in office. If the
17	expungement is granted under this Subparagraph, it shall be filed at no cost to

1	the defendant.
2	* * *
3	Art. 987. Motion to set aside conviction and dismiss prosecution; rule to show
4	cause; order of dismissal forms to be used
5	"STATE OF LOUISIANA
6	JUDICIAL DISTRICT FOR THE PARISH OF
7	
8	
9	No.: Division: ""
10	State of Louisiana
11	vs.
12	
13	MOTION TO SET ASIDE CONVICTION AND
14	DISMISS PROSECUTION
15	NOW INTO HONORABLE COURT, comes
16	□ Defendant, OR
17	☐ Defendant through undersigned Counsel,
18	who moves that the conviction pursuant to Louisiana Code of Criminal Procedure
19	☐ Article 894(B) Misdemeanors, OR
20	☐ Article 893(E) Felonies, OR
21	in the above numbered case be set aside and that the prosecution dismissed in accordance with the Code
22	of Criminal Procedure in that:
23	\Box the <u>The</u> period of the deferred sentence has run and petitioner has successfully completed the
24	terms of his probation.
25	☐ The defendant was convicted for the offense of attempted malfeasance in office.
26	The mover is further identified below:
27	DOCKET NUMBER:
28	CHARGE:
29	DATE OF ARREST:
30	ARRESTING AGENCY:
31	CITY/PARISH OF ARREST:
32	The Mover prays that, after a contradictory hearing with the District Attorney's Office, the Court
33	order the above numbered case be set aside and that the prosecution dismissed in accordance with the
34	Code of Criminal Procedure.
35	Respectfully submitted,
36	

1	Signature of Attorney for Mover/Defendant
2	
3	
4	Attorney for Mover/Defendant Name
5	
6	
7	Attorney's Bar Roll No.
8	
9	
10	Address
11	
12	
13	City, State, ZIP Code
14	
15	
16	Telephone Number
17	
18	
19	If not represented by counsel:
20	
21	
22	Signature of Mover/Defendant
23	
24	
25	Mover/Defendant Name
26	
27	
28	Address
29	
30	
31	City, State, ZIP Code
32	
33	
34	Telephone Number
35	
36	STATE OF LOUISIANA
37	JUDICIAL DISTRICT FOR THE PARISH OF

1		
2		
3	No.:	Division: ""
4		
5	State of Louisiana	
6		
7	vs.	
8		
9		
10		
11	RULE TO SHOW CAUSE	
12	Rede to show chest	
13	IT IS HEREBY ORDERED, that the District Attorney show ca	use on the day of
14	, 20, ato'clockm why the fore	
15		going motion should not be
	granted.	20
16	THUS ORDERED AND SIGNED this day of	, 20 at
17	, Louisiana,	
18 19	JUDGE	
20 21	PLEASE SERVE:	
21 22 23	1. District Attorney:	
24 25	Attorney for Defendant and/or Defendant	
26 27	STATE OF LOUISIANA	
24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39	JUDICIAL DISTRICT FOR THE PARISH OF	
30		District H H
32	No.:	Division: ""
33 34	State of Louisiana	
35 36	vs.	
37		
38 39	ORDER OF DISMISSAL	
40	Considering the Motion to Set Aside Conviction and Dismiss Prosec	ution, the hearing conducted
41	on the representation of the State of Louisiana of its consent hereto, and that the	here is no opposition for any
42	good cause appearing herein;	
43	IT IS ORDERED, ADJUDGED AND DECREED that this con-	viction is set aside and the
44	prosecution dismissed for purposes of expungement.	
45	THUS ORDERED AND SIGNED this day of	, 20 at
46	, Louisiana.	
47		
48 49	JUDGE	

Attorney for Defendant and/or Defendant	1	PLEASE SERVE:
2. Attorney for Defendant and/or Defendant	2 3	1. District Attorney:
Art. 989. Motion for expungement forms to be used STATE OF LOUISIANA JUDICIAL DISTRICT FOR THE PARISH OF No:	4	
Art. 989. Motion for expungement forms to be used STATE OF LOUISIANA JUDICIAL DISTRICT FOR THE PARISH OF No.:		2. Attorney for Defendant and/or Defendant"
Art. 989. Motion for expungement forms to be used STATE OF LOUISIANA JUDICIAL DISTRICT FOR THE PARISH OF		* * *
STATE OF LOUISIANA JUDICIAL DISTRICT FOR THE PARISH OF No.:		Art 989 Motion for expungement forms to be used
State of Louisiana vs.		
No.:		
State of Louisiana State of Louisiana State of Louisiana Vs.		
State of Louisiana vs.	12	No.: Division: ""
MOTION FOR EXPUNGEMENT	13	State of Louisiana
MOTION FOR EXPUNGEMENT NOW INTO COURT comes mover, who provides the court with the following information in connection with this request: I. DEFENDANT INFORMATION NAME: (Last, First, MI)	14	vs.
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I. DEFENDANT INFORMATION NAME:		
NAME: (Last, First, MI) DOB: / (MM/DD/YYYY)		<u> </u>
Clast, First, MI DOB:		
DOB:		
GENDER SSN (last 4 digits): XXX-XX- Male SSN (last 4 digits): XXX-XX- SSN (last 4 digits): AGENCY: SID# (if available): AGENCY ITEM NO. AGENCY ITEM NO. Mover is entitled to expunge the record of his arrest/conviction pursuant to Louisiana Code of Criminal Procedure Article 971 et seq. and states the following in support: II. ARREST INFORMATION (MM/DD/YYYY) SON A supplemental sheet with arrests and/or convictions is attached after page 2 of this Motion. YES NO Nover was: Nover was:		
SSN (last 4 digits): XXX-XX	22	
RACE: DRIVER LIC.# ARRESTING AGENCY: SID# (if available): ARREST NUMBER (ATN): AGENCY ITEM NO. Mover is entitled to expunge the record of his arrest/conviction pursuant to Louisiana Code of Criminal Procedure Article 971 et seq. and states the following in support: II. ARREST INFORMATION 1. Mover was arrested on / (MM/DD/YYYY) 2 YES NO A supplemental sheet with arrests and/or convictions is attached after page 2 of this Motion. 3. Mover was:		SSN (last 4 digits): YYY-YY-
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() Not prosecuted for any offense arising out of this charge. () Pre-trial Diversion Program.	55	${}$ $(MM/DD/YYYY)$
() Pre-trial Diversion Program.	56	, , , , , , , , , , , , , , , , , , ,
· · ·	57	
() DWI Pre-Trial Diversion Program	58	· · · · · · · · · · · · · · · · · · ·
	59	() DWI Pre-Trial Diversion Program

1		and 5 years have elapsed since the
2		date of arrest.
3		() Charge dismissed
4		() Found not guilty/judgment of acquittal
5	NO. 2	La. Rev. Stat. Ann. §::
6		Name of the offense
7		() Time expired for prosecution
8		(MM/DD/YYYY
9		() Not prosecuted for any
10		offense arising out of this charge.
11		() Pre-trial Diversion Program.
12		() Charge dismissed
13		() Found not guilty/judgment of acquittal
14	NO. 3	La. Rev. Stat. Ann. § :
	NO. 3	Name of the offense
15		
16		() Time expired for prosecution
17		(MM/DD/YYYY
18		() Not prosecuted for any offense
19		arising out of this charge.
20		() Pre-trial Diversion Program.
21		() Charge dismissed
22		() Found not guilty/judgment of acquittal
23	Yes	No MISDEMEANOR CONVICTIONS
24	NO. 1	La. Rev. Stat. Ann. § :
25		Name of the offense
26		() Conviction set aside/dismissed / /
27		pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY
28		() More than 5 years have passed
29		since completion of sentence.
	NO 2	÷
30	NO. 2	·
31		Name of the offense
32		() Conviction set aside/dismissed /_/_/
33		pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY
34		() More than 5 years have passed
35		since completion of sentence.
36	Yes	_ No FELONY CONVICTIONS
37	NO. 1	La. Rev. Stat. Ann. §::
38		() Conviction set aside/dismissed//
39		pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY
40		() More than 10 years have passed
41		since completion of sentence
42		() Received a first offender pardon for an elibible eligible
43		offense
44		() Convicted of attempted malfeasance in office
45	NO. 2	La. Rev. Stat. Ann. § :
46	110.2	() Conviction set aside/dismissed //_/
47		pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY
48		() More than 10 years have passed
49		• • •
		since completion of sentence
50 51		() Received a first offender pardon for an eligible offense
51	₹ 7	() Convicted of attempted malfeasance in office
52	Yes	_ No OPERATING A MOTOR VEHICLE WHILI
53		INTOXICATED CONVICTIONS
54		tached the following:
55	()	A copy of the proof from the Department of Public Safety and
56		Corrections, office of motor vehicles, that it has received from the
57		clerk of court a certified copy of the record of the plea, fingerprint
58		of the defendant, and proof of the requirements set forth in C.Cr.F

1			ide the defendant's date of birth, last four
2	<i>7</i> 3 <i>6</i> 1		mber, and driver's license number
3			following pertinent documents:
4 5	Ц		ck from the La. State Police/Parish Sheriff
6		dated within the past 60 da Bill(s) of Information (if a	• \ 1 /
7			l disposition of case (if any).
8		· · · · · · · · · · · · · · · · · · ·	the District Attorney for fee waiver (if
9		eligible).	the District Attorney for fee warver (if
10		<u> </u>	the District Attorney verifying that the
11	_		ns or pending applicable criminal charges
12		in the requisite time period	
13			the District Attorney verifying that the
14		charges were refused.	
15		Certification Letter from	the District Attorney verifying that the
16			te in a pretrial diversion program.
17		Copy of a first offender pa	
18			iving the sex offender registration and
19		notification requirements.	
20		± *	determination of factual innocence and
21		<u> </u>	r a wrongful conviction pursuant to the
22 23	The N	provisions of R.S. 15:572.	
24		± •	objection timely filed by the arresting law ey's office, or the Louisiana Bureau of
25			hat an order be issued herein ordering the
26			r conviction set forth above, including all
27			any other such information, which record
28			ered a public record, nor be made available
29		_	ember of a law enforcement agency, or a
30	-		in writing, certifying that such request is
31	for the purpo	se of prosecuting, investigati	ing, or enforcing the criminal law, for the
32	purpose of a	ny other statutorily defined la	aw enforcement or administrative duties,
33			sex offender registration and notification
34	*	•	et seq. or as an order of this Court to any
35			otherwise authorized by law.
36			by each agency named herein is attached
37 38		the Motion be granted ex par	requests that no contradictory hearing be
39	required and		pectfully submitted,
40		Kes	pectrumy submitted,
41		Sig	gnature of Attorney for Mover/Defendant
42		2.2	5
43			Attorney for Mover/Defendant Name
44			•
45			Attorney's Bar Roll No.
46			
47			Address
48			
49			
50			City, State, ZIP Code
51			TD.1. 1 NT 1
52			Telephone Number
53 54			If not represented by counsel:
55			Signature of Mover/Defendant
56			Signature of Mover/Deteridant
57			Mover/Defendant Name
58			1.25 . 5.7 2 5151144115 1 (41116

1	Address
2 3 4	City, State, ZIP Code
5	Telephone Number
7	* * *
8 9	Art. 989. Motion for expungement forms to be used
10 11	STATE OF LOUISIANA JUDICIAL DISTRICT FOR THE PARISH OF
12 13	
14	No.: Division: "" State of Louisiana
15	VS.
16	vs.
17	MOTION FOR EXPUNGEMENT
18	NOW INTO COURT comes mover, who provides the court with the
19	following information in connection with this request:
20	I. DEFENDANT INFORMATION
21	
22	NAME:(Last, First, MI)
23	DOB: (2001, 1111) (MM/DD/YYYY)
24	GENDER Female Male
25	SSN (last 4 digits): XXX-XX
26	RACE:
27	DRIVER LIC.#
28	A D D E CEDICAL
29	SID# (if available):
30	
31	ARREST NUMBER (ATN): AGENCY ITEM NO.
32	Mover is entitled to expunge the record of his arrest/conviction pursuant to
33	Louisiana Code of Criminal Procedure Article 971 et seq. and states the following
34	in support: II. ARREST INFORMATION
35	
36	1. Mover was arrested on/(MM/DD/YYYY)
37	2. YES NO A supplemental sheet with arrests and/or
38	convictions is attached after page 2 of this
39	Motion.
40	3. Mover was:
41	YES NO Arrested, but it did not result in conviction
42	YES NO Convicted of and seeks to expunge a
43	misdemeanor
44	YES NO Convicted of and seeks to expunge a felony YES NO Convicted but determined to be factually
45	
46	innocent and entitled to compensation for a
47	wrongful conviction pursuant to the
48	provisions of R.S. 15:572.8. Mover was backed and/or shared with the following offenses: (List each
49	4. Mover was booked and/or charged with the following offenses: (List each
50	offense booked and charged separately. Attach a supplemental sheet, if
51	necessary.)
52	Yes No ARRESTS THAT DID NOT RESULT IN CONVICTION
53	NO. 1 La. Rev. Stat. Ann. § :
54	Name of the offense
55	() Time expired for prosecution
56	(MM/DD/YYYY)
57	() Not prosecuted for any offense
58	arising out of this charge.

1		() Pre-trial Diversion Program.
2		() DWI Pre-Trial Diversion Program
3		and 5 years have elapsed since the
4		date of arrest.
5		() Charge dismissed
6		() Found not guilty/judgment of acquittal
7	NO. 2	La. Rev. Stat. Ann. § :
8	1,0,2	Name of the offense
9		() Time expired for prosecution
10		(MM/DD/YYYY)
11		() Not prosecuted for any
12		offense arising out of this charge.
		<u> </u>
13		() Pre-trial Diversion Program.
14		() Charge dismissed
15	NO 4	() Found not guilty/judgment of acquittal
16	NO. 3	La. Rev. Stat. Ann. § :
17		Name of the offense
18		() Time expired for prosecution
19		(MM/DD/YYYY)
20		() Not prosecuted for any offense
21		arising out of this charge.
22		() Pre-trial Diversion Program.
23		() Charge dismissed
24		() Found not guilty/judgment of acquittal
25	Yes	No MISDEMEANOR CONVICTIONS
26	NO. 1	La. Rev. Stat. Ann. § :
27		Name of the offense
28		() Conviction set aside/dismissed / /
29		pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
30		() More than 5 years have passed
31		since completion of sentence.
32	NO. 2	La. Rev. Stat. Ann. § :
33	NO. 2	Name of the offense
34		
		() Conviction set aside/dismissed /// ////////////////////////////////
35		pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
36		() More than 5 years have passed
37	X 7	since completion of sentence.
38	Yes	No FELONY CONVICTIONS
39	NO. 1	La. Rev. Stat. Ann. § :
40		() Conviction set aside/dismissed // /////
41		pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
42		() More than 10 years have passed
43		since completion of sentence
44		() Received a first offender pardon for an elibible eligible
45		offense
46		() Convicted of attempted malfeasance in office
47	NO. 2	La. Rev. Stat. Ann. §::
48		() Conviction set aside/dismissed//
49		pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)
50		() More than 10 years have passed
51		since completion of sentence
52		() Received a first offender pardon for an eligible offense
53		() Convicted of attempted malfeasance in office
54	Yes	No OPERATING A MOTOR VEHICLE WHILE
55		INTOXICATED CONVICTIONS
56	Mover has at	tached the following:
57	()	A copy of the proof from the Department of Public Safety and
58	()	Corrections office of motor vehicles that it has received from the

1 2 3 4 5	5 Mover has	of the defendant, and part. 556, which shall it digits of social security	ed copy of the record of the plea, fingerprints proof of the requirements set forth in C.Cr.P. nclude the defendant's date of birth, last four y number, and driver's license number the following pertinent documents:
6 7			Check from the La. State Police/Parish Sheriff
8		Bill(s) of Information	
9		. /	final disposition of case (if any).
10			om the District Attorney for fee waiver (if
11	_	eligible).	on the Bisard Finding for the warver (if
12		<u> </u>	om the District Attorney verifying that the
13			ctions or pending applicable criminal charges
14		in the requisite time pe	
15			om the District Attorney verifying that the
16		charges were refused.	om the District Attorney verifying that the
17			om the District Attorney verifying that the
18	Ш		
			cipate in a pretrial diversion program.
19		Copy of a first offende	•
20			waiving the sex offender registration and
21		notification requireme	
22		± •	order determination of factual innocence and
23		-	n for a wrongful conviction pursuant to the
24		provisions of R.S. 15:5	
25		* •	s no objection timely filed by the arresting law
26			orney's office, or the Louisiana Bureau of
27			on, that an order be issued herein ordering the
28			nd/or conviction set forth above, including all
29			, or any other such information, which record
30		_	sidered a public record, nor be made available
31	_		, member of a law enforcement agency, or a
32			tion in writing, certifying that such request is
33			igating, or enforcing the criminal law, for the
34		•	ed law enforcement or administrative duties,
35			s of sex offender registration and notification
36	•	•	541 et seq. or as an order of this Court to any
37	-	_	r as otherwise authorized by law.
38			ion" by each agency named herein is attached
39		-	dant requests that no contradictory hearing be
40	required and t	the Motion be granted ex	•
41			Respectfully submitted,
42			
43			Signature of Attorney for Mover/Defendant
44			
45			Attorney for Mover/Defendant Name
46			
47			Attorney's Bar Roll No.
48			
49			Address
50			
51			
52			City, State, ZIP Code
53			
54			Telephone Number
55			If not represented by counsel:
56			
57			Signature of Mover/Defendant
58			

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1	Mover/Defendant Name
2 3	Address
4	City State ZID Code
5 6	City, State, ZIP Code
7	Telephone Number
8 9	Section 2. R.S. 14:134(D) is hereby enacted to read as follows:
10	§134. Malfeasance in office
11	* * *
12	D. No person shall be convicted of attempted malfeasance in office. Any
13	person convicted of attempted malfeasance in office prior to August 1, 2022,
14	shall have grounds to have the conviction set aside and the conviction expunged.
	The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Whitney Kauffeld.
	DIGEOT

DIGEST 2022 Regular Session

Jackson

<u>Present law</u> provides for qualifications for a person to file a motion to expunge his record of arrest and conviction, including that the conviction was set aside and prosecution dismissed, more than 10 years have elapsed from the completion of the sentence without any additional convictions, the offender is entitled to a first offender pardon, or upon a contradictory hearing.

<u>Proposed law</u> retains <u>present law</u> and provides for the additional qualification that the conviction was for the offense of attempted malfeasance in office.

<u>Present law</u> provides forms for a motion to set aside a conviction and for expungement.

<u>Proposed law</u> retains <u>present law</u> and adds that a person may file a motion to set aside a conviction and receive an expungement for the crime of attempted malfeasance in office.

<u>Proposed law</u> retains <u>present law</u> but provides there is no offense of attempted malfeasance in office.

Effective August 1, 2022.

SB 334 Original

(Amends C.Cr.P. Art. 978, 987, and 989; adds R.S. 14:134(D))