SLS 22RS-476 **ENGROSSED** 

2022 Regular Session

1

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)

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.:			
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	☐ the The 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				

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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		
	DILLE TO CHOW CALICE	
11	RULE TO SHOW CAUSE	
12		
13	IT IS HEREBY ORDERED, that the District Attorney show of	
14	, 20, ato'clockm why the for	regoing motion should not be
15	granted.	
16	THUS ORDERED AND SIGNED this day of	, 20 at
17	, Louisiana,	
18 19	JUDGE	
20		
21 22 23	PLEASE SERVE:	
24	1. District Attorney:	
25 26	2. Attorney for Defendant and/or Defendant	<del></del>
26 27 28 29 30 31 32 33 34 35 36	STATE OF LOUISIANA JUDICIAL DISTRICT FOR THE PARISH OF	
29 30	<del></del>	
31	No.:	<b>Division:</b> ""
33	State of Louisiana	
35 36	vs.	
36 37 38		
39	ORDER OF DISMISSAL	
40	Considering the Motion to Set Aside Conviction and Dismiss Prose	ecution, the hearing conducted
41	on the representation of the State of Louisiana of its consent hereto, and that	there is no opposition for any
42	good cause appearing herein;	
43	IT IS ORDERED, ADJUDGED AND DECREED that this co	nviction is set aside and the
44	prosecution dismissed for purposes of expungement.	
45	THUS ORDERED AND SIGNED this day of	, 20at
46	, Louisiana.	
47		
48	JUDGE	

1	PLEASE SERVE:			
2 3	1. District Attorney:			
4				
5	2. Attorney for Defendant and/or Defendant"			
6	* * *			
7 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)			
22 23	DOB:/(MM/DD/YYYY) GENDERFemaleMale			
24	SSN (last 4 digits): XXX-XX			
25	RACE:			
26	DRIVED LIC#			
27	ARRESTING AGENCY:			
28	CID# (if available).			
29	ARREST NUMBER (ATN):			
30	AGENCY ITEM NO			
31	Mover is entitled to expunge the record of his arrest/conviction pursuant to			
32	Louisiana Code of Criminal Procedure Article 971 et seq. and states the following			
33	in support:			
34	II. ARREST INFORMATION			
35	1. Mover was arrested on/(MM/DD/YYYY)			
36	2. YESNO A supplemental sheet with arrests and/or			
37	convictions is attached after page 2 of this			
38	Motion.			
39	3. Mover was:			
40	YES NO Arrested, but it did not result in conviction			
41	YES NO Convicted of and seeks to expunge a			
42 42	misdemeanor			
43 4.4	YES NO Convicted of and seeks to expunge a felony			
14 15	YES NO Convicted but determined to be factually			
+3 46	innocent and entitled to compensation for a wrongful conviction pursuant to the			
47	provisions of R.S. 15:572.8.			
48	4. Mover was booked and/or charged with the following offenses: (List each			
19 19	offense booked and charged separately. Attach a supplemental sheet, if			
50	necessary.)			
51	Yes No ARRESTS THAT DID NOT RESULT IN CONVICTION			
52	NO. 1 La. Rev. Stat. Ann. \[ \ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \\ \			
53	Name of the offense			
54	( ) T' ' 10 ' '			
55	( ) Time expired for prosecution (MM/DD/YYYY)			
56	( ) Not prosecuted for any offense			
57	arising out of this charge.			
58	( ) Pre-trial Diversion Program.			
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

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1 2		Art. 556, which shall include the defendant's date of birth, last four digits of social security number, and driver's license number		
3 4	5. Mover ha □	s attached to this Motion the following pertinent documents:  Criminal Background Check from the La. State Police/Parish Sheriff		
5		dated within the past 60 days (required).		
6		Bill(s) of Information (if any).		
7		Minute entry showing final disposition of case (if any).		
8		Certification Letter from the District Attorney for fee waiver (if		
9		eligible).		
10 11		Certification Letter from the District Attorney verifying that the		
12		applicant has no convictions or pending applicable criminal charges in the requisite time periods.		
13		Certification Letter from the District Attorney verifying that the		
14	_	charges were refused.		
15		Certification Letter from the District Attorney verifying that the		
16		applicant did not participate in a pretrial diversion program.		
17		Copy of a first offender pardon		
18		A copy of the order waiving the sex offender registration and		
19		notification requirements.		
20		A copy of the court order determination of factual innocence and		
21		order of compensation for a wrongful conviction pursuant to the		
22		provisions of R.S. 15:572.8 if applicable.		
23		Mover prays that if there is no objection timely filed by the arresting law		
24		agency, the district attorney's office, or the Louisiana Bureau of		
25		ntification and Information, that an order be issued herein ordering the		
26 27		t of the record of arrest and/or conviction set forth above, including all fingerprints, disposition, or any other such information, which record		
28		dential and no longer considered a public record, nor be made available		
29		ons, except a prosecutor, member of a law enforcement agency, or a		
30	-	judge who may request such information in writing, certifying that such request is		
31		se of prosecuting, investigating, or enforcing the criminal law, for the		
32		ny other statutorily defined law enforcement or administrative duties,		
33		rpose of the requirements of sex offender registration and notification		
34	pursuant to the	he provisions of R.S. 15:541 et seq. or as an order of this Court to any		
35	other person	for good cause shown, or as otherwise authorized by law.		
36		"Affidavit of No Opposition" by each agency named herein is attached		
37		ade a part hereof, Defendant requests that no contradictory hearing be		
38	required and	the Motion be granted ex parte.		
39		Respectfully submitted,		
40				
41		Signature of Attorney for Mover/Defendant		
42		Attornay for Mayor/Defendant Nama		
43 44		Attorney for Mover/Defendant Name		
45		Attorney's Bar Roll No.		
46		Attorney's Bar Roll No.		
47		Address		
48		11441455		
49				
50		City, State, ZIP Code		
51				
52		Telephone Number		
53		If not represented by counsel:		
54				
55		Signature of Mover/Defendant		
56				
57		Mover/Defendant Name		
58				

1	Addre	ess
2 3	City, State, ZIP Co	de
4	Talanhana Numi	
5 6	Telephone Numb	Jei
7	* * *	
8		
9	Art. 989. Motion for expungement forms to be used	
0	STATE OF LOUISIANA	
1	JUDICIAL DISTRICT FOR THE PARISH OF	
2 3		
3	No.: Division: "	•••
4	State of Louisiana	
5	vs.	
6		
7	MOTION FOR EXPUNGEMENT	
8	NOW INTO COURT comes mover, who provides the court with	ihe
9	following information in connection with this request:	
0	I. DEFENDANT INFORMATION	
21	NAME:	
22	(Last, First, MI)	
.3 24	DOB:/(MM/DD/YYYY)  GENDER Female Male	
.4 .5		
.5 .6	SSN (last 4 digits): XXX-XXRACE:	
.0 .7	DRIVER LIC.#	
28	ARRESTING AGENCY:	
29	SID# (if available):	
0	ADDECE NO DED (ADD)	
1	AGENCY ITEM NO.	
2	Mover is entitled to expunge the record of his arrest/conviction pursuant	: to
3	Louisiana Code of Criminal Procedure Article 971 et seq. and states the following	
4	in support:	0
5	II. ARREST INFORMATION	
6	1. Mover was arrested on/(MM/DD/YYYY)	
7	2. YES NO A supplemental sheet with arrests and	or/
8	convictions is attached after page 2 of the	his
9	Motion.	
0	3. Mover was:	
-1	YES NO Arrested, but it did not result in conviction	
2	YES NO Convicted of and seeks to expunge	e a
3	misdemeanor	
4	YES NO Convicted of and seeks to expunge a felon	
.5	YES NO Convicted but determined to be factua	
6	innocent and entitled to compensation fo	
-7	wrongful conviction pursuant to t	he
18	provisions of R.S. 15:572.8.	1
.9	4. Mover was booked and/or charged with the following offenses: (List ea	
50	offense booked and charged separately. Attach a supplemental sheet,	11
51	necessary.)	
i2	Yes No ARRESTS THAT DID NOT RESULT IN CONVICTION IN CONVIC	
53 54	NO. 1 La. Rev. Stat. Ann. § : :	
55 5	( ) Time against for magazytica	
i6	( ) Time expired for prosecution (MM/DD/YYY	$\overline{\mathbf{v}}$
7	( ) Not prosecuted for any offense	1)
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	1,0,1	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.
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	<b>X</b> 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

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1 2 3		of the defendant, and p Art. 556, which shall i	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
4			y number, and driver's license number
5	5. Mover has		the following pertinent documents:
6		Criminal Background (	Check from the La. State Police/Parish Sheriff
7		dated within the past 6	0 days (required).
8		Bill(s) of Information (	(if any).
9		Minute entry showing	final disposition of case (if any).
10			om the District Attorney for fee waiver (if
11		eligible).	· · · · · · · · · · · · · · · · · · ·
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
			on the District Attorney verifying that the
16		charges were refused.	41 - Di-4-i-4 A44
17			om the District Attorney verifying that the
18	_		cipate in a pretrial diversion program.
19		Copy of a first offende	1
20		1 ·	waiving the sex offender registration and
21		notification requirement	
22		A copy of the court o	rder determination of factual innocence and
23		order of compensation	n for a wrongful conviction pursuant to the
24		provisions of R.S. 15:5	572.8 if applicable.
25	The M	over prays that if there is	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 the	he 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			Tittorney & But Iton 110.
49			Address
50			Address
51			C'. C. ZID C 1
52			City, State, ZIP Code
53			
54			Telephone Number
55			If not represented by counsel:
56			
57			Signature of Mover/Defendant
58			

1 Mover/Defendant Name 2 3 Address 4 5 City, State, ZIP Code 6 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.

> DIGEST 2022 Regular Session

Jackson

SB 334 Engrossed

<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.

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