

2022 Regular Session

HOUSE BILL NO. 774

BY REPRESENTATIVE GLOVER

CRIMINAL/RECORDS: Provides relative to expungements for certain amounts of possession of marijuana

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 986(A) and (C) and to enact
3 Code of Criminal Procedure Articles 977(D) and 997, relative to expungement of
4 records; to provide relative to the motion to expunge a record of arrest and
5 conviction of a misdemeanor offense; to provide relative to when a person may file
6 an expungement for certain convictions of possession of marijuana; to provide
7 relative to the expungement form for misdemeanor marijuana convictions; to provide
8 for prospective and retroactive application; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Criminal Procedure Article 986(A) and (C) are hereby amended
11 and reenacted and Code of Criminal Procedure Articles 977(D) and 997 are hereby enacted
12 to read as follows:

13 Art. 977. Motion to expunge a record of arrest and conviction of a misdemeanor
14 offense

15 * * *

16 D. Notwithstanding any provision of law to the contrary, a person may file
17 a motion to expunge his record of arrest and conviction of a misdemeanor offense
18 involving the possession of marijuana, tetrahydrocannabinol, or chemical derivatives
19 thereof pursuant to R.S. 40:966(C)(2)(a) after one hundred eighty days from the date
20 of conviction.

1 Art. 986. Forms for the expungement of records

2 A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,
3 994, ~~and 995~~, and 997 of this Code shall be used for filing motions to expunge a
4 record of an arrest which did not result in a conviction, for the expungement of a
5 record of arrest and conviction of a misdemeanor or felony offense, or for an interim
6 motion to expunge a felony offense which resulted in a misdemeanor conviction.

7 * * *

8 C. The clerk of court for any court in the state of Louisiana having criminal
9 jurisdiction may amend any of the forms provided for in Articles 987, 988, 989, 990,
10 991, 992, 993, 994, ~~and 995~~, and 997 to provide the appropriate name of the court
11 ordering an expungement of records.

12 * * *

13 Art. 997. Motion for expungement form to be used for certain misdemeanor
14 convictions

15 **STATE OF LOUISIANA**

16 **JUDICIAL DISTRICT FOR THE PARISH OF**

17 _____

18 **No.:** _____

Division: " _____ "

19 **State of Louisiana**

20 **vs.**

21 _____

22 **MOTION FOR EXPUNGEMENT FOR MISDEMEANOR CONVICTION FOR**

23 **POSSESSION OF MARIJUANA PURSUANT TO R.S. 40:966(C)(2)(a)**

24 NOW INTO COURT comes mover, who provides the court with the following
25 information in connection with this request:

26 **I. DEFENDANT INFORMATION**

27 **NAME:** _____

28 (Last, First, MI)

29 **DOB:** _____ / _____ / _____ (MM/DD/YYYY)

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Respectfully submitted,

Signature of Attorney for Mover/Defendant

Attorney for Mover/Defendant Name

Attorney's Bar Roll No.

Address

City, State, ZIP Code

Telephone Number

If not represented by counsel:

Signature of Mover/Defendant

Mover/Defendant Name

Address

City, State, ZIP Code

Telephone Number

25 Section 2. The provisions of this Act shall be given prospective and retroactive
26 application.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 774 Reengrossed

2022 Regular Session

Glover

Abstract: Relative to the expungement of records, provides relative to when a person may file an expungement for certain convictions of possession of marijuana.

Present law provides for the expungement of certain arrest and conviction records under certain circumstances.

Present law further provides that a person may file a motion to expunge his record of arrest and conviction of a misdemeanor offense if either of the following apply:

- (1) The conviction was set aside and prosecution was dismissed.
- (2) More than five years have elapsed since the person completed any sentence, deferred adjudication, or period of probation and parole, and the person has not been convicted of any felony offense during such period, and has no felony charge pending against him.

Proposed law retains present law and provides that a person may file a motion to expunge his record of arrest and conviction of a misdemeanor offense involving the possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof pursuant to present law (R.S. 40:966(C)(2)(a)) after 180 days from the date of conviction.

Present law provides for the forms used for the expungement of records.

Proposed law adds an additional form for misdemeanor convictions for possession of marijuana pursuant to present law (R.S. 40:966(C)(2)(a)).

Provides for prospective and retroactive application.

(Amends C.Cr.P. Art. 986(A) and (C); Adds C.Cr.P. Arts. 977(D) and 997)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Provide that a person may file a motion to expunge a record of arrest and conviction for certain convictions of possession of marijuana after 180 days from the date of conviction.
2. Remove proposed law relative to the exemption of expungement fees for persons convicted of a misdemeanor offense involving the possession of marijuana.

The House Floor Amendments to the engrossed bill:

1. Add a form for the expungement of misdemeanor convictions for possession of marijuana pursuant to present law (R.S. 40:966(C)(2)(a)).