HLS 23RS-123 ORIGINAL

2023 Regular Session

HOUSE BILL NO. 286

BY REPRESENTATIVE BOYD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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 Articles 983(J), (K), and (L) and 986(A)
3	and (C) and to enact Code of Criminal Procedure Articles 977(D), 983(M), and 998,
4	relative to expungement; to provide relative to the motion to expunge a record of
5	arrest and conviction of a misdemeanor offense; to provide relative to when a person
6	may file an expungement for certain convictions of possession of marijuana; to
7	provide relative to the fees for an expungement of a record; to provide for
8	exemptions of fees in certain expungement cases; to provide relative to the
9	expungement form for misdemeanor marijuana convictions; and to provide for
10	related matters.
11	Be it enacted by the Legislature of Louisiana:
12	Section 1. Code of Criminal Procedure Articles 983(J), (K), and (L) and 986(A) and
13	(C) are hereby amended and reenacted and Code of Criminal Procedure Articles 977(D),
14	983(M), and 998 are hereby enacted to read as follows:
15	Art. 977. Motion to expunge a record of arrest and conviction of a misdemeanor
16	offense
17	* * *
18	D. Notwithstanding any provision of law to the contrary, a person may file
19	a motion to expunge his record of arrest and conviction of a misdemeanor first
20	offense involving the possession of marijuana, tetrahydrocannabinol, or chemical

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1	derivatives thereof pursuant to R.S. 40:966(C)(2)(a) or (b) after ninety days from the
2	date of conviction.
3	* * *
4	Art. 983. Costs of expungement of a record; fees; collection; exemptions;
5	disbursements
6	* * *
7	J. Notwithstanding any other provision of law to the contrary, a person who
8	has been convicted of a misdemeanor first offense involving the possession of
9	marijuana, tetrahydrocannabinol, or chemical derivatives thereof pursuant to R.S.
10	40:966(C)(2)(a) or (b) shall be exempt from the payment of the processing fees
11	otherwise authorized by this Article.
12	J.K. Notwithstanding any other provision of law to the contrary, a person
13	who has been granted a pardon shall be exempt from payment of the processing fees
14	otherwise authorized by this Article. However, no person granted a first offender
15	pardon pursuant to Article IV, Section 5(E)(1) of the Constitution of Louisiana shall
16	be exempt from payment of the processing fees otherwise authorized by this Article.
17	K.L. If an application for an expungement of a record includes two or more
18	offenses arising out of the same arrest, including misdemeanors, felonies, or both,
19	the applicant shall be required to pay only one fee as provided for by this Article.
20	<u>L.M.</u> Notwithstanding any provision of law to the contrary, an applicant for
21	the expungement of a record, other than as provided in Paragraphs F and G of this
22	Article, may proceed in forma pauperis in accordance with the provisions of Code
23	of Civil Procedure Article 5181 et seq.
24	* * *
25	Art. 986. Forms for the expungement of records
26	A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,
27	994, and 995, and 998 of this Code shall be used for filing motions to expunge a
28	record of an arrest which did not result in a conviction, for the expungement of a

1	record of arrest and conviction of a misdemeanor or felony offense, or for an interim		
2	motion to expunge a felony offense which resulted in a misdemeanor conviction.		
3	* * *		
4	C. The clerk of court for any court in the state of Louisiana having criminal		
5	jurisdiction may amend any of the forms provided for in Articles 987, 988, 989, 990,		
6	991, 992, 993, 994, and 995, and 998 to provide the appropriate name of the court		
7	ordering an expungement of records.		
8	* * *		
9	Art. 998. Motion for expungement form to be used for certain misdemeanor		
10	convictions		
11	STATE OF LOUISIANA		
12	JUDICIAL DISTRICT FOR THE PARISH OF		
13			
14	No.: <u>Division: " "</u>		
15	State of Louisiana		
16	<u>vs.</u>		
17			
18	MOTION FOR EXPUNGEMENT FOR MISDEMEANOR FIRST CONVICTION		
19	FOR POSSESSION OF MARIJUANA PURSUANT TO R.S. 40:966(C)(2)(a) or (b)		
20	NOW INTO COURT comes mover, who provides the court with the following		
21	information in connection with this request:		
22	I. <u>DEFENDANT INFORMATION</u>		
23	NAME:		
24	(Last, First, MI)		
25	DOB: / / (MM/DD/YYYY)		
26	GENDER Female Male		
27	SSN (last 4 digits): XXX-XX-		
28	RACE:		
29	DRIVER LIC.#		

1	ARRESTING AGENCY:	
2	SID# (if available):	
3	ARREST NUMBER (ATN):	
4	AGENCY ITEM NO.	
5	Mover is entitled to expunge the record of his arrest/conviction pursuant to Louisiana	
6	Code of Criminal Procedure Article 971 et seq. and states the following in support:	
7	II. MISDEMEANOR FIRST CONVICTION FOR POSSESSION OF	
8	MARIJUANA PURSUANT TO R.S. 40:966(C)(2)(a) or (b)	
9	1. Mover was convicted on / / (MM/DD/YYYY)	
10	The Mover prays that if there is no objection timely filed by the arresting law	
1	enforcement agency, the district attorney's office, or the Louisiana Bureau of	
12	Criminal Identification and Information, that an order be issued herein ordering the	
13	expungement of the record of arrest and/or conviction set forth above, including all	
14	photographs, fingerprints, disposition, or any other such information, which record	
15	shall be confidential and no longer considered a public record, nor be made available	
16	to other persons, except a prosecutor, member of a law enforcement agency, or a	
17	judge who may request such information in writing, certifying that such request is	
18	for the purpose of prosecuting, investigating, or enforcing the criminal law, for the	
19	purpose of any other statutorily defined law enforcement or administrative duties,	
20	or for the purpose of the requirements of sex offender registration and notification	
21	pursuant to the provisions of R.S. 15:541 et seq. or as an order of this court to any	
22	other person for good cause shown, or as otherwise authorized by law.	
23	If an "Affidavit of No Opposition" by each agency named herein is attached hereto	
24	and made a part hereof, defendant requests that no contradictory hearing be required	
25	and the motion be granted ex parte.	
26	Respectfully submitted,	
27		
28	Signature of Attorney for Mover/Defendant	
29		

1	Attorney for Mover/Defendant Name
2	
3	Attorney's Bar Roll No.
4	
5	Address
6	
7	City, State, ZIP Code
8	
9	Telephone Number
0	If not represented by counsel:
1	
2	Signature of Mover/Defendant
3	
4	Mover/Defendant Name
5	
6	Address
7	
8	City, State, ZIP Code
9	
	<u>Telephone Number</u>
	DIGEST
The digest printed below v	was prepared by House Legislative Services. It constitutes no part
	ent. The keyword, one-liner, abstract, and digest do not constitute

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 286 Original

2023 Regular Session

Boyd

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

<u>Present law</u> provides for the expungement of certain arrest and conviction records under certain circumstances.

<u>Present law</u> 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:

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- (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.

<u>Proposed law</u> retains <u>present law</u> 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 <u>present law</u> (R.S. 40:966(C)(2)(a) or (b)) after 90 days from the date of conviction.

<u>Present law</u> (C.Cr.P. Art. 983) provides relative to the fees for an expungement of a record and exempts certain applicants from paying any fees.

<u>Proposed law</u> retains <u>present law</u> and adds that a person who has been convicted of a misdemeanor offense involving the possession of marijuana pursuant to <u>present law</u> (R.S. 40:966(C)(2)(a) or (b)) shall be exempt from the payment of the processing fees otherwise authorized by present law.

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

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

(Amends C.Cr.P. Arts. 983(J), (K), and (L) and 986(A) and (C); Adds C.Cr.P. Arts. 977(D), 983(M), and 998)