

2023 Regular Session

HOUSE BILL NO. 286

BY REPRESENTATIVES BOYD, BRASS, BRYANT, CARPENTER, WILFORD
CARTER, COX, FISHER, FREEMAN, GAINES, GLOVER, GREEN, HUGHES,
KNOX, LAFLEUR, LARVADAIN, LYONS, MARCELLE, MOORE, NEWELL,
PHELPS, PIERRE, SELDERS, AND WILLARD

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 Article 986(A) and (C) and to enact
3 Code of Criminal Procedure Articles 977(D), 983(M), and 998, relative to
4 expungement; 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 fees for an expungement of a record; to provide for fees in certain
8 expungement cases; to provide relative to the expungement form for misdemeanor
9 marijuana convictions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Criminal Procedure Article 986(A) and (C) are hereby amended
12 and reenacted and Code of Criminal Procedure Articles 977(D), 983(M), and 998 are hereby
13 enacted to read as follows:

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

16 * * *

17 D. Notwithstanding any provision of law to the contrary, a person may file
18 a motion to expunge his record of arrest and conviction of a misdemeanor conviction

1 for a first offense possession of marijuana, tetrahydrocannabinol, or chemical
2 derivatives thereof after ninety days from the date of conviction.

3 * * *

4 Art. 983. Costs of expungement of a record; fees; collection; exemptions;
5 disbursements

6 * * *

7 M.(1) Notwithstanding Paragraph B of this Article, the total cost to obtain
8 a court order expunging a record of a misdemeanor conviction for a first offense
9 possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof shall
10 not exceed three hundred dollars. The nonrefundable processing fees for a court
11 order expunging such record shall be as follows:

12 (a) The Louisiana Bureau of Criminal Identification and Information may
13 charge a processing fee of fifty dollars for the expungement of the record when
14 ordered to do so by the court in compliance with the provisions of this Title.

15 (b) The sheriff may charge a processing fee of fifty dollars for the
16 expungement of the record when ordered to do so by the court in compliance with
17 the provisions of this Title.

18 (c) The district attorney may charge a processing fee of fifty dollars for the
19 expungement of the record when ordered to do so by the court in compliance with
20 the provisions of this Title.

21 (d) The clerk of court may charge a processing fee of one hundred fifty
22 dollars to cover the clerk's costs of the expungement.

23 (2) The clerk of court shall collect all processing fees at the time the motion
24 for expungement is filed.

25 (3) The clerk shall immediately direct the collected processing fee provided
26 for in Subsubpragraph (1)(a) of this Paragraph to the Louisiana Bureau of Criminal
27 Identification and Information, and the processing fee amount shall be deposited
28 immediately upon receipt into the Criminal Identification and Information Dedicated
29 Fund Account.

1 (4) The clerk shall immediately direct the collected processing fees provided
2 for in Subsubparagraphs (1)(b) and (c) of this Paragraph to the sheriff and the district
3 attorney, and the processing fee amount shall be remitted immediately upon receipt
4 in equal proportions to the office of the district attorney and the sheriff's general
5 fund.

6 (5) The provisions of this Paragraph shall be null, void, and without effect
7 and shall terminate on August 1, 2026.

* * *

9 Art. 986. Forms for the expungement of records

10 A. Only the forms provided for in Articles 987, 988, 989, 990, 991, 992, 993,
11 994, ~~and 995,~~ and 998 of this Code shall be used for filing motions to expunge a
12 record of an arrest which did not result in a conviction, for the expungement of a
13 record of arrest and conviction of a misdemeanor or felony offense, or for an interim
14 motion to expunge a felony offense which resulted in a misdemeanor conviction.

* * *

16 C. The clerk of court for any court in the state of Louisiana having criminal
17 jurisdiction may amend any of the forms provided for in Articles 987, 988, 989, 990,
18 991, 992, 993, 994, ~~and 995,~~ and 998 to provide the appropriate name of the court
19 ordering an expungement of records.

* * *

21 Art. 998. Motion for expungement form to be used for certain misdemeanor
22 convictions

STATE OF LOUISIANA

JUDICIAL DISTRICT FOR THE PARISH OF

26 No.: _____

Division: " _____ "

State of Louisiana

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vs.

**MOTION FOR EXPUNGEMENT FOR MISDEMEANOR CONVICTION FOR A
FIRST OFFENSE POSSESSION OF MARIJUANA**

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)

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

GENDER _____ Female _____ Male

SSN (last 4 digits): _____ XXX-XX- _____

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. MISDEMEANOR CONVICTION FOR A FIRST OFFENSE POSSESSION
OF MARIJUANA**

1. Mover was convicted on _____ / _____ / _____ (MM/DD/YYYY)

The Mover prays that if there is no objection timely filed by the arresting law
enforcement agency, the district attorney's office, or the Louisiana Bureau of
Criminal Identification and Information, that an order be issued herein ordering the
expungement of the record of arrest and/or conviction set forth above, including all
photographs, fingerprints, disposition, or any other such information, which record
shall be confidential and no longer considered a public record, nor be made available

1 to other persons, except a prosecutor, member of a law enforcement agency, or a
2 judge who may request such information in writing, certifying that such request is
3 for the purpose of prosecuting, investigating, or enforcing the criminal law, for the
4 purpose of any other statutorily defined law enforcement or administrative duties,
5 or for the purpose of the requirements of sex offender registration and notification
6 pursuant to the provisions of R.S. 15:541 et seq. or as an order of this court to any
7 other person for good cause shown, or as otherwise authorized by law.

8 If an "Affidavit of No Opposition" by each agency named herein is attached hereto
9 and made a part hereof, defendant requests that no contradictory hearing be required
10 and the motion be granted ex parte.

11 Respectfully submitted,

12 _____
13 Signature of Attorney for Mover/Defendant

14 _____
15 Attorney for Mover/Defendant Name

16 _____
17 Attorney's Bar Roll No.

18 _____
19 Address

20 _____
21 City, State, ZIP Code

22 _____
23 Telephone Number

24 **If not represented by counsel:**
25 _____

26 Signature of Mover/Defendant

27 _____
28 Mover/Defendant Name

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Address

City, State, ZIP Code

Telephone Number

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 286 Reengrossed

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.

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 conviction for a first offense possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof after 90 days from the date of conviction.

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

Proposed law retains present law and adds that the total cost for a person who has been convicted of a misdemeanor conviction for a first offense possession of marijuana shall not exceed \$300.

Proposed law further provides that the nonrefundable processing fees for a court order expunging such record shall be as follows:

- (1) The La. Bureau of Criminal Identification and Information may charge a processing fee of \$50.
- (2) The sheriff may charge a processing fee of \$50.
- (3) The district attorney may charge a processing fee of \$50.

(4) The clerk of court may charge a processing fee of \$150.

Proposed law provides that the \$300 fee shall be null, void, and without effect and shall terminate on Aug. 1, 2026.

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

Proposed law adds an additional form for convictions for a first offense possession of marijuana.

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

Summary of Amendments Adopted by House

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

1. Remove proposed law relative to misdemeanor first offenses of possession of marijuana over 14 grams.
2. Provide that proposed law only applies to misdemeanor first offenses of possession of marijuana of 14 grams or less, pursuant to present law (R.S. 40:966(C)(2)(a)).
3. Remove proposed law relative to the exemption of processing fees for persons convicted of certain misdemeanor offenses for possession of marijuana.
4. Provide for a fee not to exceed \$300 for persons convicted of certain misdemeanor offenses for possession of marijuana.
5. Provide relative to the distribution of the \$300 fee to the La. Bureau of Criminal Identification and Information, the sheriffs, the district attorneys, and the clerks of court.
6. Provide that the \$300 fee shall be null, void, and without effect on Aug. 1, 2026.

The House Floor Amendments to the engrossed bill:

1. Provide that proposed law applies to misdemeanor convictions for a first offense possession of marijuana, tetrahydrocannabinol, or chemical derivatives.