2015 Regular Session

HOUSE BILL NO. 837 (Substitute for House Bill No. 100 by Representative Price)

BY REPRESENTATIVE PRICE

1	AN ACT
2	To amend and reenact Code of Criminal Procedure Articles 977(A)(introductory paragraph),
3	978(A)(introductory paragraph) and (B)(1), and 989 and to enact Code of Criminal
4	Procedure Articles 977(A)(3) and 978(A)(3) and (E), relative to expungement; to
5	provide for eligibility for an expungement in cases of factual innocence; to provide
6	for the expungement of certain crimes of violence after a cleansing period; to provide
7	for expungement forms regarding factual innocence; and to provide for related
8	matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. Code of Criminal Procedure Articles 977(A)(introductory paragraph),
11	978(A)(introductory paragraph), (B)(1) and 989 are hereby amended and reenacted and Code
12	of Criminal Procedure Articles 977(A)(3) and 978(A)(3) and (E) are hereby enacted to read
13	as follows:
14	Art. 977. Motion to expunge a record of arrest and conviction of a misdemeanor
15	offense
16	A. A person may file a motion to expunge his record of arrest and conviction
17	of a misdemeanor offense if either any of the following apply:
18	* * *
19	(3) The person was determined to be factually innocent and entitled to
20	compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8.
21	The person may seek to have the arrest and conviction which formed the basis for

Page 1 of 9

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1	the wrongful conviction expunged without the limitations or time delays imposed by
2	the provisions of this Article or any other provision of law to the contrary.
3	* * *
4	Art. 978. Motion to expunge record of arrest and conviction of a felony offense
5	A. Except as provided in Paragraph B of this Article, a person may file a
6	motion to expunge his record of arrest and conviction of a felony offense if either
7	any of the following apply:
8	* * *
9	(3) The person was determined to be factually innocent and entitled to
10	compensation for a wrongful conviction pursuant to the provisions of R.S.
11	15:572.8. The person may seek to have the arrest and conviction which formed
12	the basis for the wrongful conviction expunged without the limitations or time
13	delays imposed by the provisions of this Article or any other provision of law to
14	the contrary.
15	B. No expungement shall be granted nor shall a person be permitted to
16	file a motion to expunge the record of arrest and conviction of a felony offense if
17	the person was convicted of the commission or attempted commission of any of
18	the following offenses:
19	(1) Unless otherwise permissible under Article 893(E) of this Code, a <u>A</u>
20	crime of violence as defined by or enumerated in R.S. 14:2(B), unless otherwise
21	authorized in Paragraph E of this Article.
22	* * *
23	E.(1) Notwithstanding any other provision of law to the contrary, after a
24	contradictory hearing, the court may order the expungement of the arrest and
25	conviction records of a person pertaining to a conviction of aggravated battery,
26	second degree battery, aggravated assault, aggravated criminal damage to
27	property, simple robbery, purse snatching, or illegal use of weapons or dangerous
28	instrumentalities if all of the following conditions are proven by the petitioner:

1	(a) More than ten years have elapsed since the person completed any			
2	sentence, deferred adjudication, or period of probation or parole based on the			
3	felony conviction.			
4	(b) The person has not been convicted of any other criminal offense			
5	during the ten-year period.			
6	(c) The person has no criminal charge pending against him.			
7	(d) The person has been employed for a period of ten consecutive years.			
8	(2) The motion filed pursuant to this Paragraph shall include a			
9	certification from the district attorney which verifies that, to his knowledge, the			
10	applicant has no convictions during the ten-year period and no pending charges			
11	under a bill of information or indictment. The motion shall be heard by			
12	contradictory hearing as provided by Article 980.			
13	* * *			
14	Art. 989. Motion for expungement forms to be used			
15	STATE OF LOUISIANA			
16	JUDICIAL DISTRICT FOR THE PARISH OF			
16 17	JUDICIAL DISTRICT FOR THE PARISH OF			
	JUDICIAL DISTRICT FOR THE PARISH OF			
17				
17 18	No.: Division: ""			
17 18 19	No.: Division: "" State of Louisiana			
17 18 19 20	No.: Division: "" State of Louisiana vs.			
17 18 19 20 21	No.: Division: "" State of Louisiana vs.			
17 18 19 20 21 22	No.: Division: "" State of Louisiana vs. MOTION FOR EXPUNGEMENT			
 17 18 19 20 21 22 23 	No.: Division: "" State of Louisiana vs. MOTION FOR EXPUNGEMENT NOW INTO COURT comes mover, who provides the court with the			
 17 18 19 20 21 22 23 24 	No.: Division: "" State of Louisiana vs			
 17 18 19 20 21 22 23 24 25 	No.: Division: "" State of Louisiana vs. MOTION FOR EXPUNGEMENT NOW INTO COURT comes mover, who provides the court with the following information in connection with this request: 1. DEFENDANT INFORMATION			
 17 18 19 20 21 22 23 24 25 26 	No.: Division: "" State of Louisiana vs			
 17 18 19 20 21 22 23 24 25 26 27 	No:			

Page 3 of 9

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	HB NO. 837	7		ENROLLED
1	RAC	CE:		
2	DRI	VER LIC.#		
3	ARR	RESTING AGE	NCY:	
4	SIDŧ	# (if available):		
5	ARR	REST NUMBER	R:	
6		Mover is ent	itled to expun	ge the record of his arrest/conviction pursuant
7	to L	ouisiana Code	of Criminal	Procedure Article 971 et seq. and states the
8	follo	wing in support	•	
9	П.	ARREST IN	FORMATI	ON
10	1.	Mover was a	rrested on	/(MM/DD/YYYY)
11	2.	YES_	NO	A supplemental sheet with arrests and/or
12				convictions is attached after page 2 of this
13				Motion.
14	3.	Mover was:		
15		YES_	NO	Arrested, but it did not result in conviction
16		YES_	NO	Convicted of and seeks to expunge a
17				misdemeanor
18		YES_	NO	Convicted of and seeks to expunge a felony
19		YES_	NO	Convicted but determined to be factually
20				innocent and entitled to compensation for
21				a wrongful conviction pursuant to the
22				provisions of R.S. 15:572.8.
23	4.	Mover was b	ooked and/or	charged with the following offenses: (List each
24		offense book	ed and charg	ed separately. Attach a supplemental sheet, if
25		necessary.)		
26		Yes No	ARRES	TS THAT DID NOT RESULT IN
27			CONVICT	ΓΙΟΝ
28	ITE	M NO. 1	La. Rev. St	at. Ann. §:
29			Name of th	e offense
30			() Time e	xpired for prosecution

Page 4 of 9

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1		(MM/DD/YYYY)
2		() Not prosecuted for any offense
3		arising out of this charge.
4		() Pre-trial Diversion Program.
5		() DWI Pre-Trial Diversion Program
6		and 5 years have elapsed since the
7		date of arrest.
8		() Charge dismissed
9		() Found not guilty/judgment of acquittal
10	ITEM NO. 2	La. Rev. Stat. Ann. §:
11		Name of the offense
12		() Time expired for prosecution
13		(MM/DD/YYYY)
14		() Not prosecuted for any
15		offense arising out of this charge.
16		() Pre-trial Diversion Program.
17		() Charge dismissed
18		() Found not guilty/judgment of acquittal
19	ITEM NO. 3	La. Rev. Stat. Ann. §:
20		Name of the offense
21		() Time expired for prosecution
22		(MM/DD/YYYY)
23		() Not prosecuted for any offense
24		arising out of this charge.
25		() Pre-trial Diversion Program.
26		() Charge dismissed
27		() Found not guilty/judgment of acquittal

1	YesNo	MISDEMEANOR CONVICTIONS	5
2	ITEM NO. 1	La. Rev. Stat. Ann. § _	:
3		Name of the offense	
4		() Conviction set aside/dismissed	//
5		pursuant to C.Cr.P. Art. 894(B)	(MM/DD/YYYY)
6		() More than 5 years have passed	
7		since completion of sentence.	
8	ITEM NO. 2	La. Rev. Stat. Ann. § _	:
9		Name of the offense	
10		() Conviction set aside/dismissed	//
11		pursuant to C.Cr.P. Art. 894(B)	(MM/DD/YYYY)
12		() More than 5 years have passed	
13		since completion of sentence.	
14	Yes No	FELONY CONVICTIONS	
15	ITEM NO. 1	La. Rev. Stat. Ann. § _	::
16		() Conviction set aside/dismissed	//
17		pursuant to C.Cr.P. Art. 893(E)	(MM/DD/YYYY)
18		() More than 10 years have passed	
19		since completion of sentence	
20	ITEM NO. 2	La. Rev. Stat. Ann. § _	:
21		() Conviction set aside/dismissed	//
22		pursuant to C.Cr.P. Art. 893(E)	(MM/DD/YYYY)
23		() More than 10 years have passed	
24		since completion of sentence	

1	Yes	_No OPERATING A MOTOR VEHICLE WHILE
2		INTOXICATED CONVICTIONS
3	Mover has atta	ached the following:
4	()	A copy of the proof from the Department of Public Safety and
5		Corrections, office of motor vehicles, that it has received from the
6		clerk of court a certified copy of the record of the plea,
7		fingerprints of the defendant, and proof of the requirements set
8		forth in C.Cr.P. Art. 556, which shall include the defendant's date
9		of birth, last four digits of social security number, and driver's
10		license number
11	5. Mover has	attached to this Motion the following pertinent documents:
12		Criminal Background Check from the La. State Police/Parish
13		Sheriff dated within the past 30 days (required).
14		Bill(s) of Information (if any).
15		Minute entry showing final disposition of case (if any).
16		Certification Letter from the District Attorney for fee waiver (if
17		eligible).
18		Certification Letter from the District Attorney verifying that the
19		applicant has no convictions or pending applicable criminal
20		charges in the requisite time periods.
21		Certification Letter from the District Attorney verifying that the
22		charges were refused.
23		Certification Letter from the District Attorney verifying that the
24		applicant did not participate in a pretrial diversion program.
25		A copy of the order waiving the sex offender registration and
26		notification requirements.
27		A copy of the court order determination of factual innocence and
28		order of compensation for a wrongful conviction pursuant to the
29		provisions of R.S. 15:572.8 if applicable.

Page 7 of 9

1	The Mover prays that if there is no objection timely filed by the arresting		
2	law enforcement agency, the district attorney's office, or the Louisiana Bureau of		
3	Criminal Investigation and Information, that an order be issued herein ordering		
4	the expungement of the record of arrest and/or conviction set forth above		
5	including all photographs, fingerprints, disposition, or any other such information		
6	which record shall be confidential and no longer considered a public record, nor		
7	be made available to other persons, except a prosecutor, member of a law		
8	enforcement agency, or a judge who may request such information in writing,		
9	certifying that such request is for the purpose of prosecuting, investigating, or		
10	enforcing the criminal law, for the purpose of any other statutorily defined law		
11	enforcement or administrative duties, or for the purpose of the requirements of sex		
12	offender registration and notification pursuant to the provisions of R.S. 15:541 et		
13	seq. or as an order of this Court to any other person for good cause shown, or as		
14	otherwise authorized by law.		
15	If an "Affidavit of No Opposition" by each agency named herein is		
16	attached hereto and made a part hereof, Defendant requests that no contradictory		
17	hearing be required and the Motion be granted ex parte.		
18	Respectfully submitted,		
19 20 21	Signature of Attorney for Mover/Defendant		
22 23	Mover/Defendant Name		
24 25	Attorney's Bar Roll No.		
26 27 28 29	Address		
30 31	City, State, ZIP Code		
31	Telephone Number		

1	If not represented by counsel:
2	
3	Signature of Mover/Defendant
4	
5	Mover/Defendant Name
6	
7	Address
8	
9	
10	City, State, ZIP Code
11	
12	Telephone Number

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____