

# ACT No. 125

2016 Regular Session

HOUSE BILL NO. 7

BY REPRESENTATIVE PRICE

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AN ACT

To amend and reenact Code of Criminal Procedure Articles 978(B)(1), 989, and 992 and to enact Code of Criminal Procedure Articles 976(A)(4) and 978(E), relative to expungement; to provide for eligibility for an expungement in cases of factual innocence; to provide for the expungement of certain crimes of violence after a cleansing period; to provide for the expungement forms to be used; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Articles 978(B)(1), 989, and 992 are hereby amended and reenacted and Code of Criminal Procedure Articles 976(A)(4) and 978(E) are hereby enacted to read as follows:

Art. 976. Motion to expunge record of arrest that did not result in a conviction

A. A person may file a motion to expunge a record of his arrest for a felony or misdemeanor offense that did not result in a conviction if any of the following apply:

\* \* \*

(4) The person was judicially determined to be factually innocent and entitled to compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8. The person may seek to have the arrest and conviction which formed the basis for the wrongful conviction expunged without the limitations or time delays imposed by the provisions of this Article or any other provision of law to the contrary.

\* \* \*

1 Art. 978. Motion to expunge record of arrest and conviction of a felony offense

2 \* \* \*

3 B. No expungement shall be granted nor shall a person be permitted to file  
4 a motion to expunge the record of arrest and conviction of a felony offense if the  
5 person was convicted of the commission or attempted commission of any of the  
6 following offenses:

7 (1) A crime of violence as defined by or enumerated in R.S. 14:2(B), unless  
8 otherwise authorized in Paragraph E of this Article.

9 \* \* \*

10 E.(1) Notwithstanding any other provision of law to the contrary, after a  
11 contradictory hearing, the court may order the expungement of the arrest and  
12 conviction records of a person pertaining to a conviction of aggravated battery,  
13 second degree battery, aggravated criminal damage to property, simple robbery,  
14 purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the  
15 following conditions are proven by the petitioner:

16 (a) More than ten years have elapsed since the person completed any  
17 sentence, deferred adjudication, or period of probation or parole based on the felony  
18 conviction.

19 (b) The person has not been convicted of any other criminal offense during  
20 the ten-year period.

21 (c) The person has no criminal charge pending against him.

22 (d) The person has been employed for a period of ten consecutive years.

23 (2) The motion filed pursuant to this Paragraph shall include a certification  
24 from the district attorney which verifies that, to his knowledge, the applicant has no  
25 convictions during the ten-year period and no pending charges under a bill of  
26 information or indictment. The motion shall be heard by contradictory hearing as  
27 provided by Article 980.

28 \* \* \*

1 Art. 989. Motion for expungement forms to be used

2 STATE OF LOUISIANA

3 JUDICIAL DISTRICT FOR THE PARISH OF

4 \_\_\_\_\_

5 No.: \_\_\_\_\_

Division: " \_\_\_\_\_ "

6 State of Louisiana

7 vs.

8 \_\_\_\_\_

9 MOTION FOR EXPUNGEMENT

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

12 I. DEFENDANT INFORMATION

13 NAME: \_\_\_\_\_

14 (Last, First, MI)

15 DOB: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (MM/DD/YYYY)

16 GENDER \_\_\_\_\_ Female \_\_\_\_\_ Male

17 SSN (last 4 digits): XXX-XX-\_\_\_\_\_

18 RACE: \_\_\_\_\_

19 DRIVER LIC.# \_\_\_\_\_

20 ARRESTING AGENCY: \_\_\_\_\_

21 SID# (if available): \_\_\_\_\_

22 ARREST NUMBER: \_\_\_\_\_

23 Mover is entitled to expunge the record of his arrest/conviction pursuant to  
24 Louisiana Code of Criminal Procedure Article 971 et seq. and states the following  
25 in support:

26 II. ARREST INFORMATION

27 1. Mover was arrested on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (MM/DD/YYYY)

28 2. \_\_\_\_\_ YES \_\_\_\_\_ NO A supplemental sheet with arrests and/or  
29 convictions is attached after page 2 of this  
30 Motion.



- 1 ( ) Not prosecuted for any
- 2 offense arising out of this charge.
- 3 ( ) Pre-trial Diversion Program.
- 4 ( ) Charge dismissed
- 5 ( ) Found not guilty/judgment of acquittal

**ITEM NO. 3**

La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_

Name of the offense \_\_\_\_\_

( ) Time expired for prosecution \_\_\_\_\_

(MM/DD/YYYY)

( ) Not prosecuted for any offense

arising out of this charge.

( ) Pre-trial Diversion Program.

( ) Charge dismissed

( ) Found not guilty/judgment of acquittal

\_\_\_\_ Yes \_\_\_\_ No **MISDEMEANOR CONVICTIONS**

**ITEM NO. 1**

La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_

Name of the offense \_\_\_\_\_

( ) Conviction set aside/dismissed \_\_\_\_/\_\_\_\_/\_\_\_\_

pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)

( ) More than 5 years have passed

since completion of sentence.

**ITEM NO. 2**

La. Rev. Stat. Ann. § \_\_\_\_\_ : \_\_\_\_\_

Name of the offense \_\_\_\_\_

( ) Conviction set aside/dismissed \_\_\_\_/\_\_\_\_/\_\_\_\_

pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)

1 ( ) More than 5 years have passed  
2 since completion of sentence.

3      Yes      No **FELONY CONVICTIONS**

4 **ITEM NO. 1** La. Rev. Stat. Ann. §          :         

5 ( ) Conviction set aside/dismissed      /      /       
6 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)

7 ( ) More than 10 years have passed  
8 since completion of sentence

9 **ITEM NO. 2** La. Rev. Stat. Ann. §          :         

10 ( ) Conviction set aside/dismissed      /      /       
11 pursuant to C.Cr.P. Art. 893(E) (MM/DD/YYYY)

12 ( ) More than 10 years have passed  
13 since completion of sentence

14      Yes      No **OPERATING A MOTOR VEHICLE WHILE**  
15 **INTOXICATED CONVICTIONS**

16 Mover has attached the following:

17 ( ) A copy of the proof from the Department of Public Safety and  
18 Corrections, office of motor vehicles, that it has received from the  
19 clerk of court a certified copy of the record of the plea, fingerprints  
20 of the defendant, and proof of the requirements set forth in C.Cr.P.  
21 Art. 556, which shall include the defendant's date of birth, last four  
22 digits of social security number, and driver's license number

23 5. Mover has attached to this Motion the following pertinent documents:

24  Criminal Background Check from the La. State Police/Parish Sheriff  
25 dated within the past 30 days (required).







1 Art. 992. Order of expungement form to be used

2 **STATE OF LOUISIANA**

3 **JUDICIAL DISTRICT FOR THE PARISH OF**

4 \_\_\_\_\_

5 No.: \_\_\_\_\_

Division: " \_\_\_\_\_ "

6 **State of Louisiana**

7 **vs.**

8 \_\_\_\_\_

9 **ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD**

10 Considering the Motion for Expungement

11  The hearing conducted and evidence adduced herein, OR

12  Affidavits of No Opposition filed,

13 IT IS ORDERED, ADJUDGED AND DECREED

14  THE MOTION IS DENIED for Item(s) No.       ,       ,       ,        the following  
15 reasons (check all that apply):

16  More than five years have not elapsed since Mover completed the  
17 misdemeanor conviction sentence.

18  More than ten years have not elapsed since Mover completed the felony  
19 conviction sentence.

20  Mover was convicted of one of the following ineligible felony  
21 offenses:

22  A violation of the Uniform Controlled Dangerous Substances  
23 Law which is ineligible to be expunged.

24  An offense currently listed as a sex offense that requires  
25 registration pursuant to La. Rev. Stat. Ann. 15:540 et seq., at  
26 the time the Motion was filed, regardless of whether the duty  
27 to register was ever imposed.

28  An offense defined or enumerated as a "crime of violence"  
29 pursuant to La. Rev. Stat. Ann. 14:2(B) at the time the  
30 Motion was filed.

- 1               The arrest and conviction being sought to have expunged is for
- 2                                   operating a motor vehicle while intoxicated and a copy of the proof
- 3                                   from the Department of Public Safety and Corrections, office of
- 4                                   motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).
- 5               Mover has had another record of misdemeanor conviction expunged
- 6                                   during the previous five-year period.
- 7               The record of arrest and conviction which Mover seeks to have
- 8                                   expunged is for operating a motor vehicle while intoxicated and
- 9                                   Mover has had another record of arrest and misdemeanor conviction
- 10                                  expunged during the previous ten-year period.
- 11              Mover has had another record of felony conviction expunged during
- 12                                  the previous fifteen-year period.
- 13              Mover was convicted of a misdemeanor which arose from
- 14                                  circumstances involving a sex offense as defined in R.S. 15:541.
- 15              Mover was convicted of misdemeanor offense of domestic abuse
- 16                                  battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
- 17              Mover did not complete pretrial diversion.
- 18              The charges against the mover were not dismissed or refused.
- 19              Mover's felony conviction was not set aside and dismissed pursuant
- 20                                  to C.Cr.P. Art. 893(E).
- 21              Mover's felony conviction was not set aside and dismissed pursuant
- 22                                  to C.Cr.P. Art. 894(B).
- 23              Mover completed a DWI pretrial diversion program, but five years
- 24                                  have not elapsed since the mover's date of arrest.
- 25              Mover's conviction for felony carnal knowledge of a juvenile is not
- 26                                  defined as misdemeanor carnal knowledge of a juvenile had the
- 27                                  mover been convicted on or after August 15, 2001.
- 28              Mover has not been employed for ten consecutive years as required
- 29                                  by Article 978(E)(1)(d)



1 purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose  
2 of any other statutorily defined law enforcement or administrative duties, or for the  
3 purpose of the requirements of sex offender registration and notification pursuant to  
4 the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other  
5 person for good cause shown, or as otherwise authorized by law.

6 NAME: \_\_\_\_\_  
7 (Last, First, MI)

8 DOB: \_\_\_\_/\_\_\_\_/\_\_\_\_ (MM/DD/YY)

9 GENDER: \_\_\_\_ Female \_\_\_\_ Male

10 SSN (last 4 digits): XXX-XX-\_\_\_\_\_

11 RACE: \_\_\_\_\_

12 DRIVER LIC.# \_\_\_\_\_

13 ARRESTING AGENCY: \_\_\_\_\_

14 SID# (if available): \_\_\_\_\_

15 ARREST NUMBER (ATN): \_\_\_\_\_

16 AGENCY ITEM NUMBER: \_\_\_\_\_

17 ARREST DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_ (MM/DD/YY)

18 **THUS ORDERED AND SIGNED** this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
19 at \_\_\_\_\_, Louisiana.

20 \_\_\_\_\_  
21 JUDGE

22 **PLEASE SERVE:**

- 23 1. District Attorney: \_\_\_\_\_
- 24 2. Arresting Agency: \_\_\_\_\_
- 25 3. Parish Sheriff: \_\_\_\_\_
- 26 4. Louisiana Bureau of Criminal Identification and Information \_\_\_\_\_
- 27 5. Attorney for Defendant (or defendant) \_\_\_\_\_
- 28 6. Clerk of Court \_\_\_\_\_

29 Section 2. This Act shall become effective upon signature by the governor or, if not  
30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
3 effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_