

INSTRUCTIONS FOR MOTION TO EXPUNGE

FEEs REQUIRED: (1) \$250.00 MONEY ORDER MADE OUT TO THE BUREAU OF CRIMINAL IDENTIFICATION AND INFORMATION.

(2) \$50.00 MONEY ORDER MADE OUT TO THE LAFOURCHE PARISH DISTRICT ATTORNEY'S OFFICE

(3) \$50.00 MONEY ORDER MADE OUT TO THE LAFOURCHE PARISH SHERIFF'S OFFICE

(4) \$200.00 MONEY ORDER MADE OUT TO THE LAFOURCHE PARISH CLERK OF COURT

IF EXPUNGEMENT IS FOR A D.W.I. CONVICTION:

FEEs REQUIRED: (1) SAME AS NUMBERS 1 THRU 4 ABOVE

(2) \$50.00 MONEY ORDER MADE OUT TO THE OFFICE OF MOTOR VEHICLE.

Things required when filing an expungement:

(1) Criminal Background Check from the La. State Police dated within the past 30 days

--To obtain a Background Check from the Louisiana State Police the following information is required:

A) Identification (Driver's License or State ID)

B) Costs (2 Money Orders: 1 for \$10.00, 1 for \$26.00)

**Debit or Credit Card can be used but a surcharge does apply

-- **State Police Headquarters, 7919 Independence Blvd, Baton Rouge, La, Phone #225-925-4108**

(2) Bill of Information (If any)

(3) Minute entry showing final disposition of case (if any)

(4) Certification Letter from District Attorney for fee waiver (if eligible)

(5) Certification Letter from the District Attorney verifying that the applicant has no convictions or pending applicable criminal charge in the requisite time periods

(6) Certification Letter from the District Attorney verifying that the charges were refused.

(7) Certification Letter from the District Attorney verifying that the applicant did not participate in a pretrial diversion program.

(8) A copy of the order waiving the sex offender registration and notification requirements.

(9) Documentation verifying that the mover has been employed for ten consecutive years.

(10) A copy of the court order determination of factual innocence and order of compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8 (if applicable).

If form is for a D.W.I. Conviction you must also attach:

(1) A copy of proof from the Office of Motor Vehicle, that it has received from the clerk of court a certified copy of the record of plea, **fingerprints of the defendant**, and proof of the requirements set forth in C.Cr.P. Art 556, which shall include the defendant's date of birth, last four digits of social security number, and driver's license.

Misdemeanor Convictions:

La. C.Cr.P. Article 977 provides in part:

A. A person may file a motion to expunge his/her record of arrest and conviction of a misdemeanor offense if either of the following apply:

(1) The conviction was set aside and the prosecution dismissed pursuant to Code of Criminal Procedure Article 894(B)

(2) More than five years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole, and the person has not been convicted of any felony offense during the five-year period, and has no felony charge pending against them. The motion filed pursuant to this Sub-paragraph shall include a certification obtained from the district attorney which verifies that to his knowledge the applicant has no felony conviction during the five-year period and no pending felony charges under a bill of information or indictment.

B. The motion to expunge a record of arrest and conviction of a misdemeanor offense shall be served pursuant to the provisions of Article 979.

C. No person shall be entitled to an expungement of a record under either of the following circumstances:

(1) The misdemeanor conviction arose from circumstances involving or is the result of an arrest for a sex offense as defined in R.S. 15:541, except that an interim expungement shall be available as authorized by the provisions of Code of Criminal Procedure Article 985.1. of this Code.

(2) The misdemeanor conviction was for domestic abuse battery.

(3) The misdemeanor conviction was for stalking (R.S. 14:40.2)

D. (1) Expungement of a record of arrest and conviction of a misdemeanor offense shall occur only **once** with respect to any person during a **five-year** period, unless the person was sentenced pursuant to Code of Criminal Procedure Article 894 (B) of this Code.

(2) Expungement of a record of arrest and conviction of a misdemeanor offense of operating a vehicle while intoxicated shall occur only **once** with respect to any person during a **ten-year** period.

Felony Convictions:

La. C.Cr.P. Article 978 provides in part:

A. Except as provided in Paragraph B of this Article, a person may file a Motion to Expunge his/her record of arrest and conviction of a felony offense if either of the following apply:

(1) The conviction was set aside and the prosecution was dismissed pursuant to Code of Criminal Procedure Article 893(E)

(2) More than ten years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction, and the person has not been convicted of any other criminal offense during the ten-year period, and has no criminal charge pending against him. The motion filed pursuant to this Sub-paragraph shall include a certification obtained from the district attorney which verifies that, to his knowledge, the applicant has no convictions during the ten-year period and no pending charges under a bill of information or indictment.

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

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

(2)(a) Notwithstanding any provision of Article 893, a sex offense or a criminal offense against a victim who is a minor as each term is defined by R.S. 15:541, or any offense which occurred prior to June 18, 1992, that would be defined as a sex offense or a criminal offense against a victim who is a minor had it occurred on or after June 18, 1992.

(2)(b) Any person who was convicted of carnal knowledge of a juvenile (R.S. 14:80) prior to August 15, 2001, is eligible for an expungement pursuant to the provisions of this Title if the offense for which the offender was convicted would be defined as misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the offender been convicted on or after August 15, 2001. The burden is on the mover to establish that the element of the offense or conviction are equivalent to the current definition of misdemeanor carnal knowledge of a juvenile as defined by R.S. 14:80.1. A copy of the order waiving the sex offender registration and notification requirements issued pursuant to the provisions of R.S. 15:542(F) shall be sufficient to meet this burden.

(3) A violation of the Uniform Controlled Dangerous Substance Law, except for any of the following which may be expunged pursuant to the provisions of this Title:

- (a) A conviction for possession of a controlled dangerous substance as provided for in R.S. 40:966(C), 967(C), 968(C), or 969(C) or 970(C).
 - (b) A conviction for possession of a controlled dangerous substance with the intent to distribute.
 - (c) A conviction for a violation of the Uniform Controlled Dangerous Substance Law which is punishable by a term of imprisonment of not more than five years.
 - (d) A conviction for a violation of the Uniform Controlled Dangerous Substance Law which may be expunged pursuant to Article 893(E).
 - (4) The conviction was for domestic abuse battery.
- C. The motion to expunge a record of arrest and conviction of a felony offense shall be served pursuant to the provisions of Article 979.
- D. Expungement of a record of arrest and conviction of a felony offense shall occur only once with respect to any person during a **fifteen-year** period
- E. (1) Notwithstanding any other provision of law to the contrary, after a contradictory hearing, the court may order the expungement of the arrest and conviction records of a person pertaining to a conviction of aggravated battery, second degree battery, aggravated criminal damage to property, simple robbery, purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the following conditions are proven by the petitioner:
- (a) More than ten years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or paroled based on the felony conviction.
 - (b) The person has not been convicted of any other criminal offense during the ten-year period.
 - (c) The person has no criminal charge pending against him.
 - (d) The person has been employed for a period of ten consecutive years.
- (2) The motion filed pursuant to this Paragraph shall include a certification from the district attorney which verifies that, to his knowledge, the applicant has no convictions during the ten-year period and no pending charges under a bill of information or indictment. The motion shall be heard by contradictory hearing as provided by Article 980.

Arrest with No Conviction:

La. C.Cr.P. Article 976 provides in part:

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

(1) The person was not prosecuted for the offense for which he was arrested, and the limitations on the institution of prosecution have barred the prosecution for that offense.

(2) The district attorney for any reason declined to prosecute any offense arising out of that arrest.

(3) Prosecution was instituted and such proceeding have been finally disposed of by dismissal, sustaining of a motion to quash, or acquittal.

(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.

B. Pursuant to R.S. 15:578.1, no person arrested for a violation of R.S. 14:98 (operating a vehicle while intoxicated) or a parish or municipal ordinance that prohibits operating a vehicle while intoxicated, impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance, and placed by the prosecuting authority into a pretrial diversion program, shall be entitled to an expungement of the record until five years have elapsed since the date of arrest for that offense.

C. The motion to expunge a record of arrest that did not result in a conviction of a misdemeanor or felony offense shall be served pursuant to the provisions of Article 979.