

2015 Regular Session

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

BY REPRESENTATIVE PRICE

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

CRIMINAL/RECORDS: Provides with respect to expungement

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 977(A)(introductory paragraph)  
3 and 978(A)(introductory paragraph) and (B)(1) 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; and to  
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Articles 977(A)(introductory paragraph) and  
10 978(A)(introductory paragraph) and (B)(1) are hereby amended and reenacted and Code of  
11 Criminal Procedure Articles 977(A)(3) and 978(A)(3) and (E) are hereby enacted to read as  
12 follows:

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

15 A. A person may file a motion to expunge his record of arrest and conviction  
16 of a misdemeanor offense if ~~either~~ any of the following apply:

17 \* \* \*

18 (3) The person was determined to be factually innocent and entitled to  
19 compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8.

20 The person may seek to have the arrest and conviction which formed the basis for

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. 15:572.8.  
11 The person may seek to have the arrest and conviction which formed the basis for the  
12 wrongful conviction expunged without the limitations or time delays imposed by the  
13 provisions of this Article or any other provision of law to the contrary.

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

18 ~~(1) Unless otherwise permissible under Article 893(E) of this Code, a~~ A crime  
19 of violence as defined by or enumerated in R.S. 14:2(B), unless otherwise authorized  
20 in Paragraph E of this Article.

21 \* \* \*

22 E.(1) Notwithstanding any other provision of law to the contrary, after a  
23 contradictory hearing, the court may order the expungement of the arrest and  
24 conviction records of a person pertaining to a conviction of aggravated battery,  
25 second degree battery, aggravated assault, aggravated criminal damage to property,  
26 simple robbery, purse snatching, or illegal use of weapons or dangerous  
27 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 felony  
3           conviction.

4           (b) The person has not been convicted of any other criminal offense during  
5           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 certification  
9           from the district attorney which verifies that, to his knowledge, the applicant has no  
10           convictions during the ten-year period and no pending charges under a bill of  
11           information or indictment. The motion shall be heard by contradictory hearing as  
12           provided by Article 980.

#### 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 837 Engrossed

2015 Regular Session

Price

**Abstract:** Provides for expungement of records of arrest and conviction for persons determined to be factually innocent and entitled to compensation for a wrongful conviction and allows for the expungement of specific crimes of violence after a cleaning period.

Present law provides for the expungement of misdemeanor arrest and conviction records if either of the following occur:

- (1) The conviction and prosecution dismissed.
- (2) Five years have elapsed since the completion of sentence, probation, or deferred sentence and the applicant has not been convicted of any felony offenses during the five-year period.

Proposed law retains present law and adds an additional criteria if the person was determined to be factually innocent and entitled to compensation for a wrongful conviction.

Present law provides for the expungement of felony arrest and conviction records if either of the following occur:

- (1) The conviction and prosecution dismissed.
- (2) 10 years have elapsed since the completion of sentence, probation, or deferred sentence and the applicant has not been convicted of any offenses during the 10-year period.

Proposed law retains present law and adds an additional criteria if the person was determined to be factually innocent and entitled to compensation for a wrongful conviction.

Present law provides for the expungement of certain misdemeanor and felony arrest and conviction records, but prohibits an expungement of a conviction for a crime of violence.

Proposed law changes present law to allow for the expungement of aggravated battery, second degree battery, aggravated assault, aggravated criminal damage to property, simple robbery, purse snatching, and illegal use of weapons or dangerous instrumentalities if more than 10 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 10-year period, has no criminal charge pending against him, and has been employed for a period of 10 consecutive years.

(Amends C.Cr.P. Arts. 977(A)(intro. para.) and 978(A)(intro. para.) and (B)(1); Adds C.Cr.P. Arts. 977(A)(3) and 978(A)(3) and (E))