

2018 Regular Session

SENATE BILL NO. 69

BY SENATOR CLAITOR

CRIMINAL PROCEDURE. Provides for the in forma pauperis filing of expungements.
(8/1/18)

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AN ACT

To enact Code of Criminal Procedure Article 983(H), relative to expungement; to allow the in forma pauperis filing of a motion to expunge a criminal record in accordance with provisions relative to in forma pauperis filings in civil matters; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 983(H) is hereby enacted to read as follows:

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

* * *

H. Notwithstanding any provision of law to the contrary, an applicant for the expungement of a record, other than as provided in Subsections F and G of this Section, may proceed in forma pauperis in accordance with the provisions of Code of Civil Procedure Article 5181 et seq.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 69 Original

2018 Regular Session

Claitor

Present law provides for the expungement of certain arrest and conviction records under certain circumstances. Present law further provides that, except as provided by certain provisions of present law, the total cost to obtain a court order expunging a record cannot exceed \$550.

Proposed law retains present law.

Present law provides that the nonrefundable processing fees for a court order expunging a record are as follows:

- (1) The La. Bureau of Criminal Identification and Information may charge a processing fee of \$250 for the expungement of any record of arrest when ordered to do so by the court in compliance with the provisions of present law.
- (2) The sheriff may charge a processing fee of \$50 for the expungement of any record of arrest when ordered to do so by the court in compliance with the provisions of present law.
- (3) The district attorney may charge a processing fee of \$50 for the expungement of any record of arrest when ordered to do so by the court in compliance with the provisions of present law.
- (4) The clerk of court may charge a processing fee not to exceed \$200 to cover the clerk's costs of the expungement.

Proposed law retains present law.

Present law provides that an applicant for the expungement of a record is not required to pay any fees to obtain an expungement of an arrest if a certification from the district attorney is presented to the clerk of court verifying that the applicant has no felony convictions and no pending felony charges under a bill of information or indictment and at least one of the following applies:

- (1) The applicant was acquitted, after trial, of all charges derived from the arrest, including any lesser and included offense.
- (2) The district attorney consents, and the case against the applicant was dismissed or the district attorney declined to prosecute the case prior to the time limitations prescribed in present law and the applicant did not participate in a pretrial diversion program.
- (3) The applicant was arrested and was not prosecuted within the time limitations prescribed in present law and did not participate in a pretrial diversion program.
- (4) The applicant was determined to be factually innocent and entitled to compensation for a wrongful conviction pursuant to the provisions of present law.
- (5) Concerning the arrest record which the applicant seeks to expunge, the applicant was determined by the district attorney to be a victim of the crime of unauthorized use of access card, identity theft, access device fraud, or any other crime involving the unlawful use of the identity or personal information of the applicant.

Proposed law retains present law.

Present law provides that a juvenile who has successfully completed any juvenile drug court program operated by a La. court is exempt from payment of the processing fees otherwise authorized by present law.

Proposed law retains present law.

Present law provides for the waiver of court costs for indigent parties (proceeding in formal pauperis) in civil matters under certain circumstances.

Proposed law retains present law.

Proposed law provides that an applicant for the expungement of a record may proceed in forma pauperis in accordance with the provisions of present law relative to the waiver of court costs for indigent parties in civil matters.

Effective August 1, 2018.

(Adds C.Cr.P. Art. 983(H))