

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 774** HLS 22RS 963

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: April 26, 2022	4:57 PM	Author: GLOVER
Dept./Agy.: State Police/D.A.s/Clerks of Court/Sheriffs		Analyst: Rebecca Robinson
Subject: Expungements for certain amounts of marijuana possession		

CRIMINAL/RECORDS

OR INCREASE GF EX See Note

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Provides relative to expungements for certain amounts of possession of marijuana

Proposed law provides that a person may file a motion to expunge his record of arrest and conviction of a misdemeanor offense involving the possession of marijuana, tetrahydrocannabinol, or chemical derivatives. Provides that a person who has been convicted of a misdemeanor offense involving the possession of marijuana shall be exempt from the payment of the processing fees. The proposed law will have **prospective and retroactive application**.

EXPENDITURES	2022-23	2023-24	2024-25	2025-26	2026-27	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Annual Total						
REVENUES	2022-23	2023-24	2024-25	2025-26	2026-27	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Annual Total						

EXPENDITURE EXPLANATION

The proposed law will likely result in an indeterminable increase in SGF expenditures for the Department of Public Safety & Corrections - Louisiana State Police (LSP), as well as local expenditures of District Attorneys, Sheriffs, and Clerks of Court. The proposed law will increase the number of expungements to be processed by the Clerks of Court, the Sheriff's office, the District Attorney's office, and LSP. Under current law, misdemeanor marijuana convictions are eligible to be expunged only if there was a deferral under Code of Criminal Procedure (CCRP) Article 894 or 5 years has elapsed since completion of sentence. However, the proposed law would remove the waiting period and the requirement of CCRP 894 and allow a defendant to expunge his record from the date of conviction. The Louisiana District Attorney's Association (LDAA) reports that in 2019 there were 7,975 people booked into jail for misdemeanor marijuana charges. This number does not include those who were only given a summons. Depending on the rate at which people file for an expungement, there may be an increase in workload on all four agencies to process and research the applications. The increased workload may result in overtime hours for existing staff or may require additional personnel.

Note: The proposed law has prospective and retroactive application, which may cause a significant increase in workload to process the expungements.

REVENUE EXPLANATION

There will be an indeterminable decrease in revenue to the statutorily dedicated Criminal Identification Fund of the Department of Public Safety - Louisiana State Police (LSP) as a result of the proposed law. LSP reports they will lose an indeterminable amount of revenue as a result of the removal of the \$250 expungement fee to LSP.

There will likewise be an indeterminable decrease in self-generated revenue to local Sheriffs' departments, District Attorneys' offices, and Clerks of Court as a result of the proposed law. **Note:** The Code of Criminal Procedure Article 983 provides for the cost of expungements. The current total cost to obtain a court order expunging a record shall not exceed \$550. The fees are allocated as follows: LSP \$250; Sheriff's Department \$50; District Attorney \$50; and Clerk of Court \$200. The proposed law amends CCP Art. 983 and provides that a person convicted of a misdemeanor offense involving the possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof shall be exempt from the payment of the processing fees; thereby decreasing self-generated revenues to the local governmental entities listed above.

For illustrative purposes only: if all of the 7,975 people booked into jail in 2019 for misdemeanor marijuana charges were to file for an expungement, the estimated loss of revenue would be as follows: LSP - \$1.9 M; Clerks of Court - \$1.6 M; Sheriff - \$398,750; District Attorney - \$398,750.

Senate
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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