

2022 Regular Session

HOUSE BILL NO. 162

BY REPRESENTATIVE MARINO

CRIMINAL/RECORDS: Provides for exemption of expungement fees in certain circumstances

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 983(H) and (I), to enact Code of
3 Criminal Procedure Article 983(J) and (K), and to repeal Code of Criminal
4 Procedure Article 983(F)(4), relative to expungement of records; to provide relative
5 to the fees for expungement of a record; to provide for exemptions of fees in certain
6 expungement cases; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 983(H) and (I) are hereby amended
9 and reenacted and Code of Criminal Procedure Article 983(J) and (K) are hereby enacted to
10 read as follows:

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

13 * * *

14 H. Notwithstanding any other provision of law to the contrary, a person who
15 was determined to be factually innocent and entitled to compensation for a wrongful
16 conviction pursuant to the provisions of R.S. 15:572.8 shall be exempt from payment
17 of the processing fees otherwise authorized by this Article.

18 I. Notwithstanding any other provision of law to the contrary, a person who
19 has been granted a pardon shall be exempt from payment of the processing fees
20 otherwise authorized by this Article. However, no person granted a first offender

1 pardon pursuant to Article IV, Section 5(E)(1) of the Constitution of Louisiana shall
2 be exempt from payment of the processing fees otherwise authorized by this Article.

3 H.J. If an application for an expungement of a record includes two or more
4 offenses arising out of the same arrest, including misdemeanors, felonies, or both,
5 the applicant shall be required to pay only one fee as provided for by this Article.

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

10 Section 2. Code of Criminal Procedure Article 983(F)(4) is hereby repealed in its
11 entirety.

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 162 Original

2022 Regular Session

Marino

Abstract: Exempts the payment of expungement fees for persons determined to be factually innocent and for persons granted a pardon.

Present law provides for the expungement of certain arrest and conviction records under certain circumstances.

Present law provides that an applicant for an expungement does not have to pay any fees for the expungement if the applicant obtains a certification from the district attorney which verifies 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 provided 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 provided for 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.

- (5) The applicant was determined to be a victim of unauthorized use of an "access card", identity theft, access device fraud, or a violation of any other crime which involves the unlawful use of the identity or personal information of the applicant.

Proposed law removes the requirement that a person determined to be factually innocent and entitled to compensation for a wrongful conviction obtain a certification from the district attorney and provides that such persons shall be exempt from the payment of processing fees.

Proposed law provides that a person who has been granted a pardon shall be exempt from the payment of processing fees. Excludes persons granted a first offender pardon pursuant to present law from the exemption of the payment of processing fees.

(Amends C.Cr.P. Art. 983(H) and (I); Adds C.Cr.P. Art. 983(J) and (K); Repeals C.Cr.P. Art. 983(F)(4))