

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 286** HLS 23RS 123

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 22, 2023	8:35 AM	Author: BOYD
Dept./Agy.: Louisiana DAA; DPSC - Public Safety; Clerks; Sheriffs		Analyst: Daniel Druilhet
Subject: Expungements for Certain Amounts of Marijuana		

CRIMINAL/RECORDS

EG DECREASE GF RV See Note

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Provides relative to expungements for certain amounts of possession of marijuana

Current law provides that a person may file a motion to expunge his record under certain enumerated circumstances, including a five year waiting period since completing a sentence, deferred adjudication, or period of probation or parole. Current law provides for the costs of an expungement of a record, along with fees, exemptions, and disbursements. Proposed law amends present law to add that a person may file a motion to expunge his record of arrest and conviction of a first offense misdemeanor involving the possession of marijuana, tetrahydrocannabinol (THC), or chemical derivatives after 90 days from date of conviction. Proposed law amends present law to add that the total cost to obtain a court order expunging a record of a misdemeanor first offense possession of marijuana, THC, or chemical derivatives thereof shall not exceed \$300. Proposed law amends the allocation of processing fees for a court order expunging a record for misdemeanor first offense possession of marijuana as follows (\$50 to the Louisiana Bureau of Criminal Identification and Information, \$50 to Louisiana Sheriffs, \$50 to District Attorneys, and \$150 to Louisiana Clerks of Court). Proposed law adds the form provided in La. C.Cr.P. Art. 998 to the list of forms that are permitted to be used for filing motions for expungement; adds the form provided in La. C.Cr.P. Art. 998 to the list of forms which Louisiana Clerks of Court having jurisdiction may amend. Proposed law terminates August 1, 2026.

EXPENDITURES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	\$0	\$0
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	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	\$0	\$0
Annual Total					\$0	\$0
REVENUES	2023-24	2024-25	2025-26	2026-27	2027-28	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	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	DECREASE	DECREASE	DECREASE	DECREASE	\$0	\$0
Annual Total					\$0	\$0

EXPENDITURE EXPLANATION

Proposed law may result in an indeterminable, but likely minimal, increase in SGF expenditures to the Department of Public Safety and Corrections - Louisiana State Police, and an indeterminable increase in local expenditures to District Attorneys, Sheriffs, and Clerks of Court. The Legislative Fiscal Office (LFO) anticipates that the additional workload associated with filing and processing expungement applications may be absorbable, either wholly or partially using existing staff and resources. The proposed law will increase the number of expungements processed by Clerks of Court, Sheriffs, District Attorneys' Offices, and the Louisiana State Police, due to the reduction in time required between completion of a sentence imposed for first offense misdemeanor possession of marijuana to the date of filing of the motion for expungement.

Current law allows a motion for expungement of a first offense misdemeanor marijuana conviction to occur after a 5-year period has elapsed since completion of the sentence. Proposed law would reduce the waiting period for filing a motion for expungement of a first offense misdemeanor marijuana possession conviction to after 90 days from the date of conviction. According to the Court Management Information System maintained by the Louisiana Supreme Court, misdemeanor cases for possession of marijuana, THC and chemical derivatives have fluctuated over the last three years from 4,824 (2020), to 5,447 (2021), to 5,242 (2022). An average of 5,171 cases would be eligible for expungement filing and processing.

REVENUE EXPLANATION

Proposed law will likely result in an indeterminable decrease in SGR to DPS&C - Louisiana Bureau of Criminal Identification and Information (LBCII), the Louisiana Clerks of Court (LCOC), the Louisiana District Attorneys (LDA), and Louisiana Sheriffs. Under current law, processing fees for a court order expunging a record include \$250 assessed by the DPS&C - LBCII, \$50 by the local sheriff, \$50 by the District Attorney, and \$200 by the Clerk of Court. Proposed law amends the allocation of processing fees for a court order expunging a record for misdemeanor first offense possession of marijuana as follows: \$50 to the LBCII, \$50 to Louisiana Sheriffs, \$50 to District Attorneys, and \$150 to LCOC). Under proposed law, the allocations to the LBCII and LCOC are reduced, while the allocations to the Louisiana Sheriffs and Louisiana District Attorneys will remain unchanged.

According to the Louisiana State Police, approximately 50% of applicants for expungements are allowed to proceed without paying any costs. For illustrative purposes (using the average of the last three years of reported misdemeanor cases for possession of marijuana - 5,171), if 100% of eligible cases applied for an expungement and 50% normally pay for an expungement, under proposed law there will be annual revenue losses of \$517,100 for the Louisiana Bureau of Criminal Identification and \$129,275 for Louisiana Clerks of Court. The exact fiscal impact of proposed law on annual revenue is indeterminable due to the fluctuations in the number of misdemeanor cases involving possession of marijuana, THC, and chemical derivatives, that will become eligible for fee exemptions.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}		<input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
<input checked="" type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux

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