

2016 Regular Session

HOUSE BILL NO. 194

BY REPRESENTATIVE JAMES

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

1 AN ACT

2 To enact Code of Criminal Procedure Article 983(F)(5), relative to expungement of arrest
3 records in misdemeanor and felony cases; to provide for an exemption of fees in
4 certain expungement cases; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 983(F)(5) is hereby enacted to read
7 as follows:

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

10 * * *

11 F. An applicant for the expungement of a record shall not be required to pay
12 any fee to the clerk of court, the Louisiana Bureau of Criminal Identification and
13 Information, sheriff, the district attorney, or any other agency to obtain or execute
14 an order of a court of competent jurisdiction to expunge the arrest from the
15 individual's arrest record if a certification obtained from the district attorney is
16 presented to the clerk of court which verifies that the applicant has no felony
17 convictions and no pending felony charges under a bill of information or indictment
18 and at least one of the following applies:

19 * * *

1 (5) The applicant was determined to be a victim of a violation of R.S.
2 14:67.3 (unauthorized use of "access card"), a violation of R.S. 14:67.16 (identity
3 theft), a violation of R.S. 14:70.4 (access device fraud), or a violation of any other
4 crime which involves the unlawful use of the identity or personal information of the
5 applicant.

6 * * *

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 194 Original

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James

Abstract: Exempts the payment of fees in certain cases of identity theft or fraud for the expungement of arrest records.

Present law provides that an applicant for expungement does not have to pay any fees for the expungement if 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 for in present law, and the applicant did not participate in a pretrial diversion program.
- (3) The applicant was arrested and was never prosecuted within the time limitations provided for in present law and did not participate in a pretrial diversion program.
- (4) The applicant has been determined to be factually innocent and entitled to compensation for a wrongful conviction.

Proposed law retains present law and adds an additional circumstance for the exemption of expungement fees when 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.

(Adds C.Cr.P. Art. 983(F)(5))